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ABSTRACT

Established to help solve the problems of rural attorneys in Nebraska via mail and telephone research services, the Creighton Legal Information Center (CLIC) is described in this manual in terms of project development and organization; project operations; replication and policy issues; costs and project budgeting; and program results. Specifically, Chapter Two traces the project's development, describing CLIC's physical and administrative organization and the types of equipment used by the project; Chapter Three details the procedures involved in responding to user requests for services and information; Chapter Four discusses a variety of replication and policy issues, including program design, organizational and operational alternatives available to other states initiating such a project; Chapter Five summarizes CLIC's past and current budgets, and describes the specific staff and equipment considerations which are relevant to a planner constructing a budget for a new project; Chapter Six focuses on the impact of CLIC--its market penetration, user demand, and value as a means of legal education, including guidelines for projecting user demand and evaluating the services. Cited as CLIC improvements are: legal research tailored to user needs; centralized research services using law school resources; special in-depth projects to improve criminal justice procedures; and continuous monitoring and evaluation. (JC)

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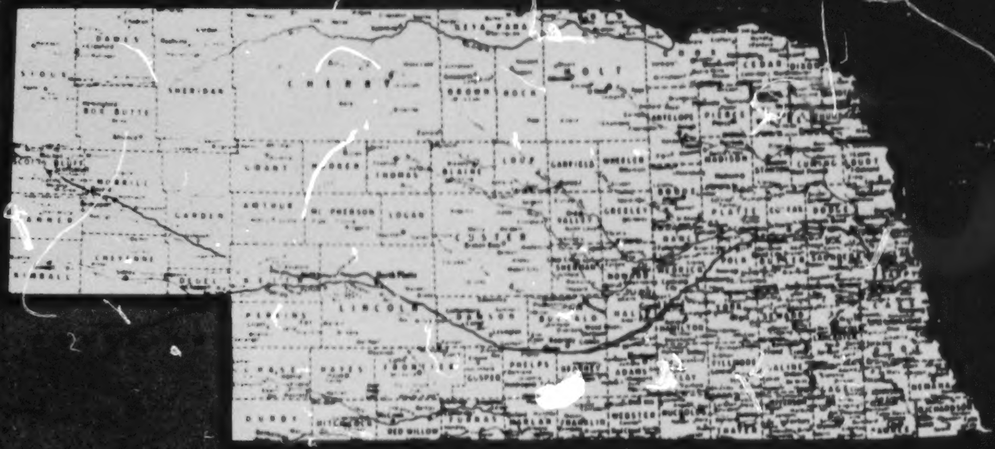

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The Creighton Legal Information Center is one of 23 programs which have earned the National Institute's "Exemplary" label. Projects are nominated through the LEAA Regional Offices and the State Planning Agencies and are examined by an independent evaluator to verify their:

- Overall effectiveness in reducing crime or improving criminal justice
- Adaptability to other jurisdictions
- Objective evidence of achievement
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AN EXEMPLARY PROJECT

RURAL LEGAL RESEARCH

Creighton Legal Information Center

Omaha, Nebraska

by
Lorrie Stuart
H. Lake Wise

March 1977

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FOREWORD

Attorneys who practice in rural areas face special difficulties in preparing cases for trial. Locating appropriate case materials may require driving hundreds of miles to the nearest law library; or, in the absence of sufficient time or staff assistance, preparing the case solely on the information at hand.

The Creighton Legal Information Center (CLIC) was established to help solve this problem in Nebraska by making adequate legal research available to remote sections of the state. Located at the Creighton University School of Law in Omaha, the project provides research services by mail and telephone to judges, prosecutors, defense counsel and other law enforcement personnel in Nebraska's rural counties.

Because of its contribution to improving the quality of justice in rural areas, CLIC has been named an Exemplary Project by the National Institute. This manual provides an overview of the project's operations. Other states with large rural areas and similar problems may wish to consider Nebraska's approach.

Gerald M. Caplan
Director
National Institute of Law Enforcement
and Criminal Justice

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CHAPTER I
INTRODUCTION

For many years now, considerable national publicity has been devoted to big-city criminal justice problems such as excessive trial delay. Far less is heard about information delay and its negative impact on rural criminal justice systems. In the state of Nebraska, the typical community is a remote island surrounded by open space, a vast 76,483 square miles in all, with a population of approximately 1.7 million persons. Nebraska is one of the 24 states in the nation with a population which is more than 34 percent rural.*

Members of the state's rural criminal justice system face a number of problems which are quite different from those faced by their counterparts in urban areas. The implications of low density populations, large distances and limited resources were demonstrated in a 1974 survey of 173 city and county attorneys, county, associate county, and district judges.** The survey revealed that:

- Only 63 percent of the respondents had access to U.S. Supreme Court materials;

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* Other largely rural states are Alabama, Alaska, Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Montana, New Hampshire, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and Wyoming. Of course, many other states--including New York and California--also have large rural populations.

** This survey was conducted by CLIC planners prior to the development of the Creighton Legal Information Center.

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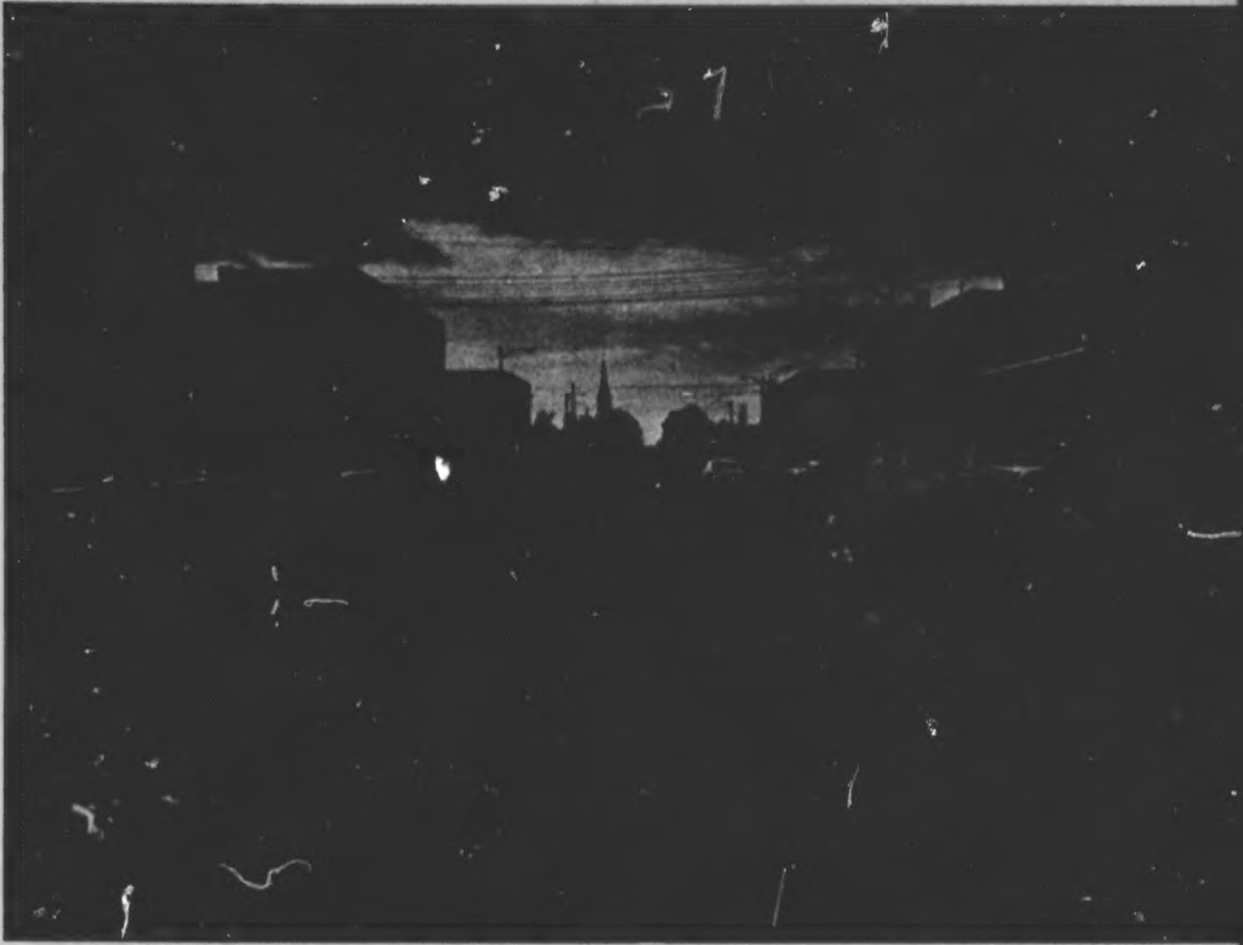

- Only 22 percent had reporters from other states or from federal jurisdictions;
- Treatises, reporter services, law reviews and legal periodicals were virtually unavailable.

The Creighton Legal Information Center (CLIC), located at Creighton University Law School in Omaha, was created to assure that justice in rural areas of Nebraska is current. Using the resources of their law library, combined with their personal knowledge, CLIC researchers serve as mail and telephone law clerks to judges, prosecutors, and court-appointed defense counsel in the entire state, except for the two urban areas of Lincoln and Omaha.

Although CLIC is a Nebraska solution, the problem it addresses is national in scope. To provide a guide to other states interested in expanding the information resources available to rural areas, the Creighton Legal Information Center has been named an Exemplary Project. The remainder of this chapter summarizes the problem and CLIC's approach and results. Subsequent chapters provide detailed guidelines for the development and operation of a similar statewide legal information center.

1.1 The Problem

Lack of Up-to-Date Information. In too many instances, rural attorneys, judges, and law enforcement officials remain unaware of important changes in the criminal law until long after those changes have occurred. Budgets in rural counties rarely if ever allow for complete law libraries. Similarly, few rural lawyers specialize in criminal law, and small or one-person law offices cannot afford to keep their criminal justice resources current. Access to law reporters from other jurisdictions, law reviews, current publications, or even the United States Supreme Court opinions too often requires a long-distance drive. For example, in Nebraska, some rural practitioners must drive as many as 300 miles to Omaha, Lincoln, Cheyenne, or Denver to reach a major law library.

Lack of Adequate Local Research Facilities. The two urban legal communities in Nebraska have access to the extensive library facilities associated with the state's two law schools (University of Nebraska at Lincoln and Creighton University in Omaha). However, the resource materials available to attorneys and judges in the 91 rural counties of the state are often limited to volumes containing Nebraska criminal statutes, and the opinions of the Nebraska Supreme Court.

Insufficient Time. Another problem facing the rural legal community is lack of time. County attorneys must often travel long distances from their offices for the investigation and prosecution of crimes. Fewer than 25 percent of these attorneys in Nebraska have staff available to assist them in research. Most county attorneys must also maintain private practices because the counties cannot afford to pay them a full-time salary. Court appointments to defend in criminal cases often go to attorneys inexperienced in criminal work. Their own libraries do not have criminal references, and the county libraries may be similarly deficient. As a result, the prosecutor or the court-appointed attorney can be faced with the prospect of traveling several hundred miles, at his or her own expense, to do the necessary research for a well-founded prosecution or defense. The time problem is equally critical for judges who must "ride the circuit," hearing cases in several counties and often traveling hundreds of miles in the course of a single month. Of the 22 district judges responding to the pre-project survey, not one had an assistant to do research.

1.2 Project Overview

The telephone and the mails are the tools that link CLIC to the rural criminal justice practitioner. CLIC's primary products are memoranda based on original research of legal questions posed by its users. When a letter or phone call comes in to CLIC, a Creighton law student supervisor checks to make sure the inquiry meets project criteria. According to these criteria, the "client" must hold a publicly-funded position (court-appointed defense counsel qualifies), the request must involve a criminal or juvenile justice issue, and the inquiry cannot create a conflict of interest by involving the project in both sides of the same case.

If CLIC has already prepared a memorandum on the issue, and if the person for whom it was written has given his permission for subsequent distribution, a copy of the memo is mailed out right away.

If the request constitutes a new question for CLIC, a Creighton law student researcher delves into books and documents and writes a memorandum answering the client's question. This memorandum is reviewed by the student supervisor, who checks for completeness, correct legal form and clarity of style. The memo is then reviewed again, this time by the CLIC full-time supervising attorney.

The CLIC secretary types and mails the memo. Two weeks after mailing the memo, the secretary sends the client a form for evaluating CLIC services, together with a release request. When the client gives his approval, a brief description of the memo will go to all attorneys, judges, sheriffs, and police chiefs in Nebraska through the project's monthly newsletter.

CLIC memos are meant for the courtroom, not the classroom. Each is fashioned as a working tool for the professional who needs it, rather than a theoretical exercise for the student who actually looks up the cases. CLIC requests that the user ask specific questions. By obtaining precise information, CLIC is able to respond with strategy as well as substance--a legal argument tailored to the user's position. When an inquiry comes in from a judge, the CLIC researchers perform services which a law clerk would provide, identifying with neither defense nor prosecution. They conduct an analysis of the statutory and case law which gives the judge the information he needs to decide on the answer to the specific question he has posed.

Writing memos is not the project's exclusive function. Requests come in regularly for law reviews, articles, reported cases, library books, special project reports, previously written memoranda and the CLIC newsletter. The newsletter is a monthly publication through which rural criminal justice officials learn of changes in the law.

In addition, CLIC has published the highly regarded Nebraska Judge's Deskbook, a concise, analytical synopsis of all available law in Nebraska relating to sentencing. Another publication lists applicable criminal justice bibliographic material in Creighton's Law Library as well as the special CLIC criminal justice collection. Still another publication abstracts and cross-indexes all previous CLIC memos.

1.3 Results

In summary, four features of CLIC have combined to produce substantial improvements in the quality of criminal justice in rural Nebraska:

- Legal research tailored to user needs;
- Centralized research services using law school resources;
- Special in-depth projects to improve criminal justice procedures, such as the Nebraska Judge's Deskbook;
- Continuous monitoring and evaluation.

The demand for CLIC services is widespread both geographically and functionally. Two-thirds of the county attorneys in Nebraska and over three-fifths of the county judges called on CLIC for assistance during its first 14 months of operation. CLIC officials report that the bulk of current requests come from repeat users.

The increasing presence of repeat users in the CLIC clientele demonstrates the quality and reputation of CLIC research services. In response to an evaluation questionnaire, over 90 percent of the respondents said they were either completely satisfied or generally pleased with CLIC services.

The strongest user endorsements of the service have come from the courtrooms, where frequently a judge will suggest that counsel contact CLIC. In a few instances, cases have been continued pending the results of CLIC research. CLIC, in short, has had a practical, positive influence on the day-to-day workings of Nebraska's rural criminal justice system.

1.4 Guide to the Manual

Each subsequent chapter of this manual is briefly abstracted below to guide the reader to information that may be of particular relevance to his or her special interests.

- Chapter 2 traces the project's development. The chapter also describes CLIC's physical and administrative organization and the types of equipment used by the project.
- Chapter 3 details the procedures involved in responding to user requests for services and for information.
- Chapter 4 discusses a variety of replication and policy issues, including program design, organizational and operational alternatives available to other states initiating such a project.
- Chapter 5 summarizes CLIC's past and current budgets, and describes the specific staff and equipment considerations which are relevant to a planner constructing a budget for a new project.
- Chapter 6 focuses on the impact of CLIC--its market penetration, user demand, and value as a means of legal education. Included are guidelines for projecting user demand and evaluating the services provided by a legal information center.

CHAPTER 2
PROJECT DEVELOPMENT AND ORGANIZATION

CLIC has become a practical influence on the day-to-day workings of the Nebraska rural criminal justice system--a vehicle of professionalism, efficiency and sophistication. This chapter outlines the events leading to the establishment of the CLIC project, and then focuses on the project's location and organization.

2.1 Project History

The idea for a project to serve lawyers in rural Nebraska was first conceived by the current Project Director, Geoffrey Peters, a Creighton Law Professor. The Director came to the conclusion that such a project was needed after numerous conversations with rural judges and attorneys whose work was hampered by lack of access to current legal reference material.

After formulating the basic project concept, the Director began acquainting various members of the legal community in Nebraska with the plan and garnering their support. State and county bar associations, whose members were well aware of the problems, were favorable from the start. However, these groups were unable to lend the fiscal and administrative support which would be needed to execute such a project. Project planners knew that sufficient financial support would be available only from state or federal agencies with the relatively large amounts of funds necessary to undertake such an experimental effort. Administrative support, on the other hand, had to come from an institution with the research facilities, space, and personnel appropriate to a project of this type. Creighton Law School, which was in the process of expanding its criminal justice curriculum, agreed

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to accept administrative responsibility, to the extent of providing space for the project in its new Ahmanson Law Center, and providing the project with access to its computer facilities and library resources. After discussions with various members of the staff of the Law Enforcement Assistance Administration, project planners submitted a discretionary grant application to that agency in January of 1974. The application was approved, and the project began receiving its first telephone requests in July of that year.

In its initial year of operation, the project concentrated on developing awareness of its existence. Potential users were contacted by mail and telephone surveys which served the dual purposes of allowing the project to construct a profile of potential consumption and informing respondents of the availability of research services. At this time the project also began placing advertisements listing the toll-free telephone number and inviting inquiry from judges, prosecutors, defense attorneys and other members of the criminal justice system. Further market recognition was cultivated through the publication of the project newsletter, which not only carried legal information but provided periodic reminders of service availability to potential customers.

The implementation phase was relatively free from start-up difficulties, in great part due to the support given the project by the Dean of the School of Law and the Vice President for Academic Affairs of Creighton University. Problems which did occur had to do with the staff's inability to complete a variety of special projects and hold seminars in addition to producing original research reports on the requests of users. This difficulty was largely the result of limited funds for paying additional staff. It also proved hard for CLIC to identify materials appropriate for library acquisition to support the project. This was partly because the Law School was in the process of moving from one building to another. A final set of problems concerned the newsletter. CLIC staff experienced some difficulty developing the mailing list for the newsletter, as well as getting the actual document printed adequately and on time. These problems were eventually solved by finding a computer firm which could create and constantly update a large mailing list, and by leasing an IBM Selectric Composer typewriter so that project staff could type and format the newsletter on campus.

During the second year of the CLIC project, operations ran smoothly. Moreover, staff were satisfied that, to a great degree, the questions originally posed by the project's planners have been answered in a way that supports further operation of the CLIC project, hopefully with financial assistance from the state legislature. These questions included the following:

Q: Will the available services be utilized? By whom? How frequently?

A: Available services have been used far beyond the extent that was originally anticipated. Services have been used with varying frequency by persons in different geographic areas who fill different positions, but with the consistent result that they will make use of the services again in the future.

Q: Will the availability of the research aid increase the capacity of officials for handling case loads?

A: A recent evaluation indicates that the two most frequently mentioned reasons for utilizing CLIC services were "inadequate library facilities" and "time." These and other responses indicate that users feel the availability of research aid has increased their capacity for handling their case loads and has improved the quality of their handling of legal problems.

Other responses to questions posed by the project's planners will be discussed in detail in later chapters.

2.2 Location

The CLIC project offices, which include a secretarial bay, the Supervising Attorney's office, the Project Director's office, and the students' office, are located in the Law School's new

Ahmanson Law Center, an impressive structure on the Creighton University campus in downtown Omaha. The offices are located on the second floor of the structure, less than a minute's walk from the Law School's Klutznick Law Library, where student staff perform the majority of their CLIC-related research.

The administrative location of the project is somewhat more difficult to describe. At present, the project is funded by a grant from the Nebraska Commission on Law Enforcement and Criminal Justice, with 10 percent matching funds from Creighton University. The funds are administered through the University, which in addition to space, provides CLIC with personnel, accounting and other support services (see Section 2.3).

Organizationally, however, the project is currently considered a part of the Creighton Institute for Business, Law and Social Research. According to an informational brochure distributed by the Institute, its purpose is to "create, propose, administer, and carry out research, evaluations, demonstration projects, consulting services, and other projects and programs of research or education in the areas of law, business, and social science disciplines." Among its activities are the following:

- Encouraging research into business, legal, and applied social science topics;
- Serving the business and marketing, legal and socio-political community with education and research; and
- Enriching the education and experience of Creighton's students.

As its name suggests, the Institute for Business, Law and Social Research is organized into three divisions. CLIC forms a part of the Law Division. The Executive Director of the Institute, Geoffrey W. Peters, is also the CLIC Project Director. The Institute and CLIC share other staff as well. The Institute's Research Director has served as CLIC's Evaluation Coordinator and has set up all of CLIC's computerized evaluation and mailing list programs. The Institute's Administrative Director also devotes approximately one-third of her time to CLIC activities. Shared staff and shared equipment complete the relationship between the Institute and CLIC.

2.3 Staffing

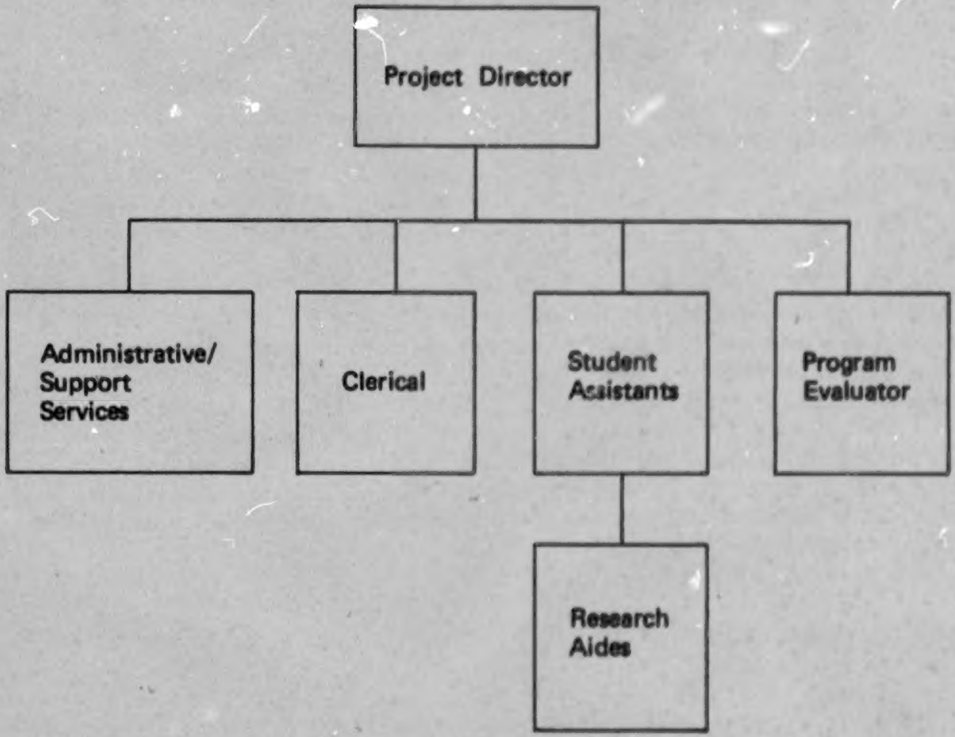
CLIC's staff, at present, consists of a Project Director, A Supervising Attorney, an Administrative Assistant, a consulting Program Evaluation/Computer Coordinator, one secretary, two Student Assistants, and ten Research Aides. With the exception of the secretary, all of these work part-time during the academic year; six of the students work full-time during the summer. All members of the administrative staff divide their time between CLIC and other pursuits, such as the Creighton Institute for Business, Law and Social Research. Figure 1 illustrates the project's overall organization, as it originally existed when the project was started.

It is important to note that the University has provided CLIC with a number of services which would otherwise have required additional personnel, or additional time from existing personnel. These services include accounting, key punching, personnel administration (hiring procedures and application of fringe benefits), and library facilities (including purchase of books and other services provided by the law school librarian). The existence of the Institute has in some ways permitted the CLIC staff to concentrate on its research function without having to secure additional support staff.

2.3.1 Administrative Staff

CLIC's professional attorney staff in its first two years consisted entirely of law professors. Despite the project's desire to turn substantive research supervisory responsibilities over to a Supervising Attorney after a year, the Project Director was unable to find an available lawyer of sufficient stature until the fall of 1976. As of September 1976, the overseeing and reviewing of research work is being done by a non-faculty Supervising Attorney, while the overall administration of the project will remain with Project Director and law professor Geoffrey Peters. The new Supervising Attorney is a highly qualified former law school faculty member and assistant dean. Thus, CLIC is remaining a law school-oriented program.

Figure 1
Creighton Legal Information Center
Project Organization



The Project Director at CLIC is currently reducing his involvement with the program, now that it is running fairly smoothly. However, he worked almost full-time at CLIC in its initial stages, and approximately half-time thereafter. The remainder of his time is devoted to teaching at the Creighton University Law School, and directing the Institute for Business, Law and Social Research.

The Project Director estimates that his time at CLIC is divided approximately equally between administration and demonstration-related activities. Among the former are hiring and supervision of student personnel, oversight of supply and equipment purchases, and liaison between CLIC and its users, the University, and the granting agency. He also writes a column for the newsletter, and accepts numerous speaking engagements to promote the program throughout Nebraska's rural areas and in other states.

Within CLIC, responsibility for most student research supervision falls to the new Supervising Attorney who does not currently hold a teaching position at Creighton Law School. His duties include assisting students in research and revising student-produced memoranda for substance, correct citation form, and grammar. He is also responsible for the immediate supervision of Student Assistants and Research Aides.

A third important administrative role is played by the Evaluation/Computer Coordinator, who actually works as a consultant to the project. The Coordinator currently spends only a small percentage of his time with CLIC; his involvement was heavier during the creation of the forms and computer programs necessary for evaluation of acquired data. His primary activities at present consist of monitoring the Center's progress by means of the in-place evaluation methodology.

The last major administrative position is that of Administrative Assistant. This job involves a variety of functions, including keeping account of financial and statistical records, supervising clerical staff, supervising purchase of supplies and equipment, coordinating students' schedules, working with the University and and the granting agency to assure that financial guidelines and administrative policies are adhered to, answering some of the correspondence from users, assuring that evaluation forms are sent out and received when due, and overseeing the production of the monthly newsletter. The Administrative Assistant currently spends approximately one-third of her time with CLIC and the rest with the Institute.

One secretary is assigned full-time to the CLIC project; in addition, the Project Director, as a law professor, has a personal secretary who occasionally becomes involved in CLIC activities. Most of the full-time secretary's time is spent typing student memoranda on an IBM magnetic card machine; she is also responsible for typing the monthly newsletter on an IBM composer. Keypunching is currently done by non-CLIC personnel at the University.

2.3.2 Student Staff

The student staff of CLIC is the core of the project's organization, since it is the students who actually research and write the memoranda which are CLIC's primary product. In the initial design of the project, a number of alternative staffing patterns were considered. Experienced criminal lawyers were rejected as too expensive. Project planners decided that it would be difficult to get top-quality recent graduates, since most new law school graduates do not seek research positions immediately after school. Current law students, it was thought, would view the type of research which CLIC involves as a welcome break. Moreover, law students are fairly flexible; if there is not enough work available, they can do additional studying. These assumptions have proven correct, as witnessed by the project's success over the past two years and its ample supply of interested students.

At present, the student staff consists of twelve members, including two Student Assistants and ten Research Assistants. Selection, training, and duties of these staff members are discussed in the following paragraphs. A further discussion of staffing may be found in Chapter 5, "Costs and Project Budgeting."

Student Assistants: Students Assistants are chosen, usually at the end of their junior year, from the Research Assistants who have already worked on the project. While the Project Director and Supervising Attorney provide "legitimization" for the Research Assistants, it is the Student Assistants who provide day-to-day supervision of student researchers. The less threatening peer relationship between the assistants and the researchers serves an important function in both training and the review and critique of research work.

During the school year, the Student Assistants work approximately 20 hours per week; most of their time is spent on administrative tasks rather than writing memos. Administrative activities include answering phones, assigning memo subjects to the Research Assistants, scheduling due dates for all memoranda, guiding the researchers in their tasks, checking memos for content and form before submission to the Supervising Attorney, and writing letters to users when appropriate. Because of their close relationship with the Research Assistants, Student Assistants are also involved in hiring the researchers. Both Student Assistants and Research Assistants have recently become involved in a speaking program, in which students address various local bar associations and other groups of lawyers on the subject of the program and its potential usefulness.

Student Assistants work full-time (40 hours per week) during the summer months. The extra time allows them more opportunity to engage in research and memorandum production, and they usually divide their time equally between these tasks and their regular administrative duties.

Research Assistants: The ten Research Assistants are the project's most valuable asset. Assistants usually stay with the project for approximately one and one-half years (one full academic year and one summer), or at the most, two years. The program encourages turnover so that as many students as possible can receive the educational and monetary benefits which it offers. CLIC takes most of its Research Assistants from the top 10 percent of the law school student body. Approximately 80 percent are on the Dean's List, and several former employees of the project have been class valedictorians or Law Review editors. (However, students usually do not work for CLIC and the Law Review simultaneously.)

Three or four positions usually open up two or three times each year, except during the summer, when only six students are employed full-time at the Center. The selection process for new Research

Assistants has developed over time. At one point early in the program's history, each applicant was asked to write a memorandum for the project; this procedure was later discarded. The program currently relies on a three-step selection process. Student applicants are first asked to submit their grade-point average and resume which includes relevant experience in research. This information is used to make the initial cut. Informal interviews with the applicants' professors are then held, and Student Assistants are asked to comment on the skills of those students with whom they are acquainted. The last step in the selection process is a formal interview with CLIC attorneys and Student Assistants. Student Assistants are also asked to evaluate the previous performance of CLIC Research Assistants who want to return to the program after having worked in their second year or during the previous summer.

The fact that there are usually at least 20 applicants for the positions available suggests that the program is a popular one with students. This is true for a number of reasons. CLIC salaries, which currently range between $3.75 and $4.25 per hour, are closely competitive with those of other jobs available to law students. CLIC, however, has a number of advantages over local law firms. For example, employees can work when they want, dress as they want, and mesh CLIC activities with their law school classes. Moreover, the educational advantages of the work are considerable; students' writing and research skills are greatly refined and, according to the Project Director, former work with CLIC frequently helps students get desirable jobs after graduation. (Students' own impressions of the program and its potential advantages are discussed at the end of this section).

Training is considered extremely important for newly-hired Research Assistants. No student comes to the program completely unprepared, since all recruits have completed the first-year law school course in Legal Research and Writing. This course develops research and writing skills as well as a working knowledge of library facilities. Initial training is also provided during the first staff meeting, when supervising students and the Supervising Attorney discuss sources which are especially helpful in criminal law research. Subsequent training consists primarily of "on-the-job" supervision. Research Assistants work closely with both Student Assistants

and the supervising attorney, who advise them as they do research for each memorandum, and then critique the memorandum for substance and form through as many drafts as are necessary to bring it to final form.

Research Assistants work an average of 15 hours per week during the school year, and 40 hours per week during the summer. Each prepares about one memorandum per week, although one Student Assistant noted that the research period can range anywhere from five days to two and a half weeks. Research Assistants are responsible for seeing reports through from initial research to final typing, including making suggested revisions to their draft memos.

According to the Project Director, students have deeply appreciated their association with the CLIC program. He notes that they are impressed with the training which the program provides both in legal research and writing and in substantive criminal law and procedure. In particular, they learn to write in correct legal form (including citations), to express themselves adequately, and to do thorough research. The Project Director points out that this kind of "practical skills acquisition" is too often missing from the law school course of studies.

Comments from students indicate agreement with the Director's assessment:

> "When I began working with this project, I had little interest in or knowledge of the field of criminal law. Specifically because of this project, I am now working as a deputy county attorney, and intend in three to five years to open my own practice defending criminal cases."

> "An advantage of CLIC...is that the work is more concentrated so that you are able to develop research skills more readily than in a law firm. These skills are not developed at all in the classroom. The guidance and precision in CLIC writing is more exacting than that required for a firm. I found the skills I developed in CLIC to be beneficial in my clerking job and in general research...."

"A general example of the excellent supervision received from Professor (X) was the way he would approve memoranda. Rather than just receiving a rough draft with comments, the student would have a conference with Professor (X) for every memo, at which time he would not only make his suggestions and criticisms, but would explain why. This was very important, as the student would learn from his errors and/or omissions."

"...although the legal reasoning and writing course provided an excellent foundation in researching a problem and writing a brief and a memo, an exercise of that type only provides a starting point. An individual's ability is sharpened by constant practice in this area with a deadline to meet. CLIC provides a valuable insight into the workings of the 'real' world. The problem necessitates focusing on a particular, specific area, often relating that area to a more general one, rather than surveying an area of the law. The program provides a student with experience in criminal law, an area in which few courses are offered. One sees the gaps in criminal law. One learns to argue from the prosecutor's, the defense attorney's, and the judge's side."

CHAPTER 3
PROJECT OPERATIONS

Every year, CLIC provides sorely-needed services to hundreds of clients in rural Nebraska. This chapter describes the procedures involved in responding to requests for information from CLIC users. Responses may be made by written memoranda, telephone discussion or by the distribution of reprints from various legal sources. Apart from the legal research memoranda written for users, CLIC has produced a number of other publications for the benefit of the legal community in Nebraska. Its monthly newsletter, special projects such as the Judge's Deskbook, and other CLIC publications are described in detail. A final section is devoted to additional project activities including the newly-initiated Speakers' Program, the continuing Legal Education projects held in conjunction with other groups at Creighton, and CLIC's public relations activities.

3.1 Legal Research Services

CLIC divides the requests it receives from users into two categories: Requests for Services and Requests for Information. A request for service initiates the activity for which CLIC is probably best known: the production of original memoranda on a wide variety of legal questions. In response to a request for information, CLIC sends clients a number of types of written materials. This section describes the procedures involved in providing both kinds of services. Most of the information in this section was summarized from the latest edition of the Creighton Legal Information Center's Procedures Manual, dated September 1976, which is included as Appendix B to this volume. The forms cited in the manual are found in Appendix A.

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In general, the first steps in handling both Requests for Information and Requests for Service are the same. Requests may be made either by mail or by calling the project's toll-free number. (Both the mailing address and the WATS line number are advertised extensively, in the monthly newsletter as well as in paid advertisements in various journals.) For all requests, a Student Assistant must decide whether the request is one which can be handled by the program. Requests for newsletters and other publicly distributed information are never denied. However, requests for original research are occasionally denied under the following circumstances:

- If there is a conflict of interest which becomes apparent when the Student Assistant checks the project files;
- If the caller is a privately retained (rather than court-appointed) defense counsel;
- If the request concerns a civil matter;
- If the caller is from Lancaster or Douglas County (the two urban counties not fully serviced by CLIC) and is not appointed to defend in another county;
- If the caller makes an unreasonable request with regard to the due date for research.

The following sub-sections detail procedures for fulfilling the various types of requests and discuss policies which developed in response to procedural problems.

3.1.1 Requests for Services

When a user requests an original research memorandum, a revision or a supplement to a previous memorandum, or a special project or report, the request is classified as a "Request for Service." The forms filled out for such requests, and the procedures involved are detailed in Appendices A and B.

Original Memoranda: If the project accepts a request for an original memorandum, the Student Assistant establishes a date on which the completed memorandum will be mailed to the person making the request. (Telephone responses are permitted under certain circumstances; these will be discussed later in this section.) The time period, which is agreed upon by the user and the Student Assistant, permits the Research Assistant to spend approximately seven days per issue researching and writing the memo; in addition, seven to ten days are allowed for the memo to be typed, reviewed, and otherwise processed. Although seven days per issue is an average, the time required to write and research memos can actually vary between five days and two and one-half weeks. The Student Assistant bases the estimate of the amount of time needed to complete the memo on previous experience with similar questions.

Research Assistants and Student Assistants do all of the necessary research in order to prepare a memorandum directed to the issues in question. (Sample memoranda are presented in Appendix C.) As a rule, Student Assistants are far too busy during the school year to do full time research; during the summer, however, they may participate in research and writing. In the course of the research phase, Research Assistants are encouraged to consult with and seek advice from both Student Assistants and the Supervising Attorney. The research takes place in Creighton's Klutznick Law Library. Some examples of materials consulted are the American Bar Association's Criminal Justice Standards, the National Advisory Commission on Criminal Justice's Standards and Goals, and case reporting services from all states, federal case reporters, treatises, and many other sources not typically found in the libraries of rural criminal justice practitioners.

At the beginning of each memorandum is a brief abstract of the original question and the answer provided. Because this question-and-answer is printed in the newsletter once the memorandum is cleared for release, the description of the substance of the memo must be legally and grammatically correct. No case or other identifying names or remarks occur in the body of the memo, since copies may later be sent to other persons.

In writing the memorandum, the Research Assistant keeps in mind the adversary slant of the user, and attempts to respond to the question in a manner which will be helpful to that user. While not distorting the law, the researcher's goal is to provide arguments which can be used to counter the law, if necessary, to support the user's point of view. To facilitate this process, the Research Assistant discusses various approaches with Student Assistants, other Research Assistants, and the Supervising Attorney. When a judge has requested the research, the writer is careful to present both sides of the issue adequately. Since the goal of the program is to provide legal research services, not to initiate changes in the law, a student's personal opinion cannot be reflected in the memorandum. Hence, the memorandum is checked for undue bias at various points in the review process.

One of the most difficult problems CLIC encountered during its early months was the user complaint that certain memoranda did not answer the question the user had asked. Conversations with such users suggested that the question had often originally been misstated. The problem has been approached in two ways. First, Student Assistants in charge of answering telephone requests go over the issue carefully with the caller, repeating the question if necessary to make sure that both parties are in full agreement about its substance. Second, periodic reminders appear in the monthly newsletter, asking users to spend a few moments thinking about and perhaps writing out the issue before phoning CLIC; it is also suggested that a short written note from the user following the telephone call would be extremely helpful to CLIC staff. These two steps have largely resolved the problem of inappropriate responses.

When the Research Assistant has completed the memorandum, a rough draft is typed on Mag II cards. The handwritten copy and the typed copy are then returned to the student to be proofread, with special attention to case citations. Next, the Student Assistant proofreads each memorandum and makes corrections and suggestions. The Student Assistant pays particular attention to the abstracted question-and-answer which will be used in the newsletter.

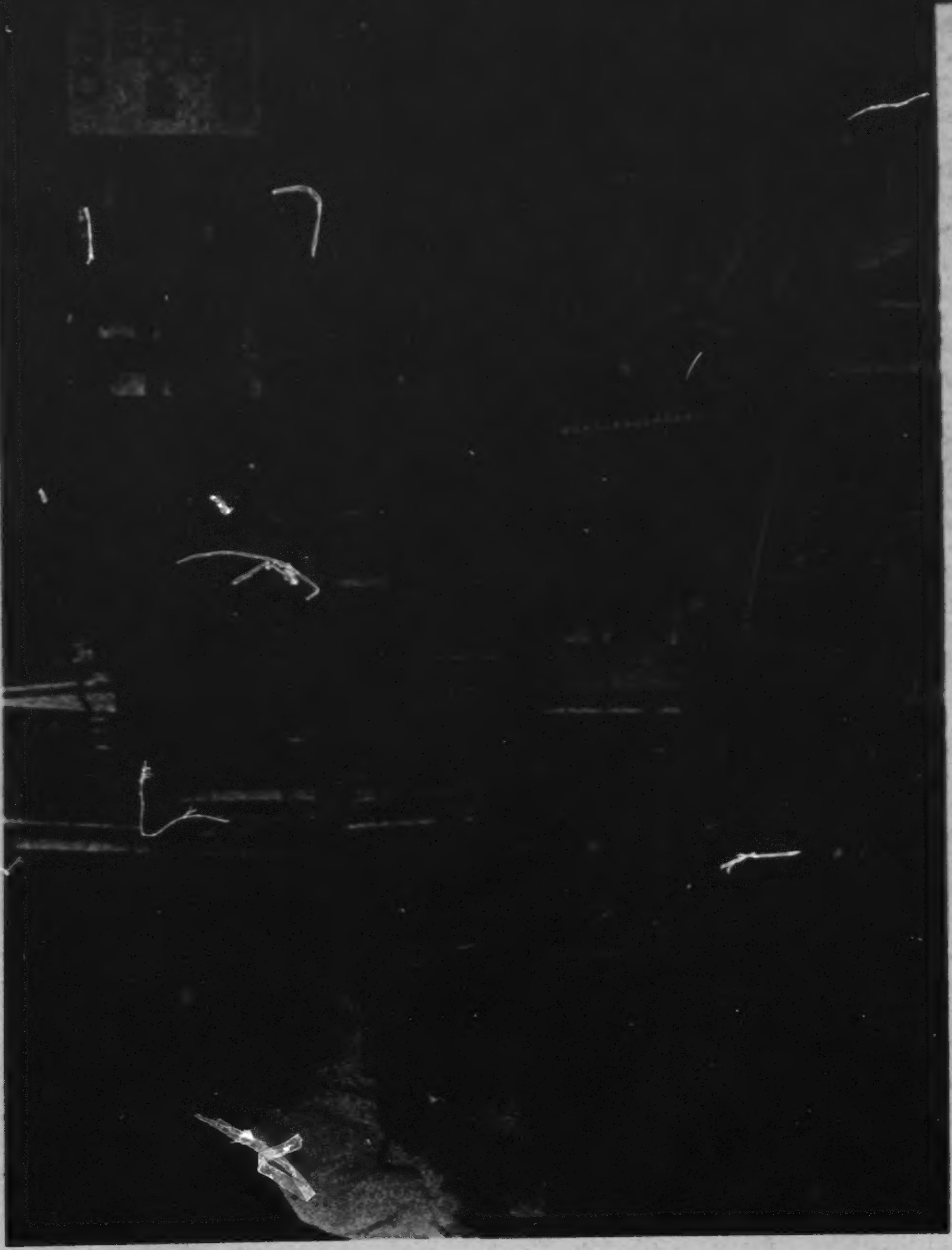
The memo is then given to the Supervising Attorney, who reviews it on a number of points: Is the answer understandable? Is the writing too verbose or too laconic? Is the text technically accurate? Finally, the Supervising Attorney reviews the question as it was originally asked, and then determines whether the answer is to the point and whether the argument made is a cogent one.

Telephone Responses: Although telephone responses are discouraged, an exception will sometimes be made--if, for instance, the user has a valid need for an extremely quick response. If the Student Assistant decides that the response can be provided over the phone, the answer must first be discussed with the Supervising Attorney, whose approval is then noted on the printed file folder. When telephone responses are requested, they are provided anywhere between hours of being received to several days later. After the telephone response, a summary of the information provided is prepared in memorandum form, typed, and mailed to the user as if it were a regular memo. An evaluation form is sent to the user two weeks later. However, the telephone response memorandum is not normally abstracted in the newsletter, and thus it is not available for release to other users. Moreover, when a telephone call results in a simple or quick response, not requiring significant research, it is classified as a "Request for Information," and is not evaluated.

3.1.2 Requests for Information

A user request for copies of materials or a general question about CLIC is classified as a "Request for Information." The forms filled out for such requests are included in Appendix A and the procedures involved are detailed in Appendix B.

Copies of Memoranda: A request for copies of previously written and "releasable" memoranda can be filled by either the secretary or a Student Assistant. Whether a memorandum ever is made available for release is the decision of the original requestor. According to CLIC policy, the person who originally requests that a memorandum be prepared can, if he or she wishes, delay release to other requestors indefinitely. This rarely happens, however, and most memos become available for release soon after the disposition of the case involved. Reprints of original memoranda can also be released to out-of-state attorneys; in such cases, there is a fee for photocopying. Nebraska attorneys can ask for any reasonable number of memo reprints free of charge.



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Copies of Articles of Cases and Newsletters: Another service provided by CLIC is that of sending photocopies of articles from journals (e.g., law reviews) and copies of reported cases to users upon request. Copies of back issues of CLIC newsletters are also sent to users on request.

Books: Upon request, users may also obtain books from the CLIC collection in the Creighton Law Library. These books are sent out on loan for 30 days. The books are checked out to CLIC with the name of the user on the card.

3.2 CLIC Publications

In addition to the program's memoranda, which have been discussed in the preceding section, CLIC has published and continues to publish a number of other documents. These include the monthly newsletter and a number of special project reports.

The most important of these publications is the newsletter, as it serves to provide continuous contact with CLIC users. In fact, decreases in requests for information and/or services have occurred during those months when no newsletter is published.* In addition, the newsletter represents an important communication medium for lawyers in Nebraska; there is no State Bar Association journal and the State Bar Newsletter comes out less than once each month. A subscription to the Nebraska Supreme Court Journal costs $80 per year, and there is also a charge for the Creighton Law Review's annual summary of Nebraska law. By contrast, the CLIC newsletter is free. It goes out regularly to approximately 4,500 persons in the state, including district, county, and associate county judges; city and county attorneys;

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* As a rule, the newsletter is published on a monthly basis; however, during certain times of the year, including exam periods, holidays, and periods in which there is a high volume of requests for services, the intervals between newsletters are sometimes longer. In 1974, only one combined newsletter was published for October-November-December; in 1975, combined issues appeared for January-February-March and for September-October; and in 1976, February-March were combined.

legislators; state, county, and local officials; public defenders and court-appointed defense counsel; law enforcement officials; media representatives; all members of the State Bar Association; criminal justice and general legal publications; criminal justice libraries in the State of Nebraska; and a number of other persons and organizations requesting placement on the mailing list.

The newsletter, four to eight pages long, represents the work of numerous staff members. The Project Director writes a regular monthly column on recent occurrences in the field of criminal law in the state and the nation (e.g., a proposal to the Nebraska Supreme Court to allow law students to participate in criminal trials), on various activities within the CLIC program (e.g., a recapitulation of CLIC activities and accomplishments on the project's first anniversary), or on other pertinent topics.

The major portion of the newsletter, however, is devoted to the Student Assistants' Report. This section contains brief synopses of memoranda released during the preceding month, presented in a "question and answer" format. A designation indicating the adversary slant utilized in preparing the memo (J-Judge; P-Probation Officer; and DCO-District Court Opinion abstracted by CLIC) is entered before each summary.

One useful feature to readers is a listing of books, articles, and other criminal justice source materials in the CLIC library which they can borrow or have copied. Information columns appear frequently on such topics as current or new LEAA programs, evaluation of CLIC services, expansion of CLIC activities, and new CLIC staff. Of special interest to newsletter readers are the periodic presentations of information on specific judicial and legislative activities, both in the state and nationwide. The fall issue of the newsletter in 1974, for example, presented a sampling of 18 recent United States Supreme Court decisions in the field of criminal law; the July 1975 and June 1976 issues both contained brief synopses of "Legislative Bills of Interest" in the State of Nebraska. More detailed analyses of legislation and court decisions have also been presented from time to time.

CLIC has produced three documents under the rubric of "Special Projects." These are the Judge's Deskbook and two project bibliographies. The idea for special projects was conceived early in the program's history as a "contingency activity," since staff were not yet sure what the volume of requests for memoranda would be. The first of these projects was to be the deskbook; however, soon after the concept of the deskbook evolved, the volume of work forced postponement of the project for 11 months.

Two student researchers, under the guidance of the Project Director, finally carried out this complex and time-consuming project. They obtained and reviewed deskbooks of a similar nature from jurisdictions throughout the country for guidelines on format and contents. The final CLIC product, officially entitled An Analysis of Sentencing Alternatives and Procedures in Nebraska, contains sections on subjects ranging from "Credit for Prior Institutional Time," to "Drug Users," to "Sexual Sociopath Determination." Extensively cross-referenced, it contains appendices on "Crimes and Punishments" and "Statutes and Legislative Bills." All district and county judges in the state and all county attorneys have received the deskbook free of charge. In addition, it has been made available at a charge of $10 to all other CLIC users; so far, 40 other persons have requested the deskbook.

The program has also compiled two large bibliographies as special projects. The first, published in July of 1975, contains a selection of holdings in the Klutznick Law Library of the Creighton University Law School. The volume, which contains approximately 750 listings, combines seven bibliographies previously issued by the program. The second bibliography, published in December of 1975, and November, 1976, is entitled A Reference to Releasable CLIC Memoranda. The first edition contained summary references to a total of 165 memoranda under 70 different subject headings. The bibliography was made available to any CLIC user, and 400 persons requested the document. The second edition is over twice the size of the first, and has similarly been popular.

3.3 Additional Activities

In addition to the publications which take up the bulk of project staff's time, CLIC is involved in a number of other activities. These include two relatively new programs--the Speakers' Program and the Criminal Advocacy Institute--as well as regular public relations activities.

3.3.1 The Speakers' Program

Student staff initiated the Speakers' Program during CLIC's second year of operation. A notice appeared in the project's newsletter stating that CLIC students were available to speak at bar association and other criminal justice professional association meetings throughout the state. This was followed by a direct letter to the president of each county and district bar association, as well as the Nebraska Association of Trial Attorneys, the County Attorney's Association, the Nebraska District Judges Association, the County Court Association, County Judges Association, Nebraska Women Lawyers, and the Defense Counsel Association. Both the newsletter article and the letter stated that CLIC students were available to speak about the project, and also to receive feedback from the association members about their likes and dislikes concerning CLIC, and their suggestions for program improvements.

Response to the program has so far been impressive. The students have received invitations to speak at seven meetings throughout the state. At one meeting, the County Bar Association passed a unanimous resolution in favor of the CLIC program. Members of another County Bar Association pledged their support, as did those attending the 15th Judicial District Bar Association meeting. The students themselves are impressed by the support they have received throughout the state in the course of their appearances, and feel that the program encourages an important two-way dialogue with their users. Several students have reported receiving requests for information or services as a result of this program.

3.3.2 Criminal Advocacy Institute

In March of 1976, CLIC joined with the Law School, the Omaha Municipal Court, the Nebraska Commission on Law Enforcement and Criminal Justice, and the Creighton Institute for Business, Law and Social Research to sponsor a three-day continuing legal education program entitled "Criminal Advocacy Institute." Although the purpose of the program was primarily to benefit Nebraska attorneys, attorneys from throughout the Midwest attended. The Institute brought together 13 national faculty members, including trial attorneys Percy Foreman and Henry Rothblatt, to speak on a variety of criminal justice topics. Many of these topics had been identified as areas of need for further education on the part of the bench and bar, based on the kinds of requests made to the CLIC program.

More than 300 judges and attorneys from 20 states attended. The informal feedback received from Nebraska users and the requests for information by out-of-state participants indicate the popularity and potential transferability of the CLIC concept. The fact that areas of need for continuing legal education could be identified due to the extensive evaluational and information materials available through the CLIC program also represented a side benefit of CLIC operations.

3.3.3 Public Relations

Since CLIC is an innovative program based on a relatively untested concept in the fields of criminal law and legal education, program staff have extensively advertised project services in order to reach eligible users. CLIC's advertising campaign has apparently been quite successful, given the high degree of user awareness that CLIC marketing surveys have revealed. The advertising program has included visits to various parts of the state by the Project Director, periodic paid advertisements in state legal journals, the production of an informational brochure about the program, and the national demonstration activities engaged in by the Project Director.

One of the most active aspects of the CLIC public relations program has been an extensive schedule of trips to various parts of Nebraska by the Project Director. The purpose of these trips, which have been going on since early in the program's history, has been to introduce CLIC's concept and services to rural attorneys and other potential users. Although they are relatively time-consuming, the Project Director feels that these trips have increased rural lawyers' awareness of the project's potential.

As awareness of the program has increased, CLIC's paid advertising campaign has been reduced. Previously, the project placed ads in every issue of the Nebraska Supreme Court Journal, which is published weekly when the court is in session. The only other viable publications for CLIC advertising are the two law review journals published in the state, one from Creighton University, and one from the University of Nebraska. Although the project used to advertise regularly in these journals as well, it now does so only sporadically.

Apart from its paid advertising, CLIC has received a great deal of free publicity from local, state, and even out-of-state news media. Press releases are sent out occasionally (viz., when events of special interest occur in the program). However, the program gets excellent coverage partly because various news media representatives are on the mailing list for CLIC's newsletter. In any event, coverage has been provided in newspapers and magazines published throughout Nebraska, and in Missouri, South Dakota, and Minnesota. News stories, particularly in rural newspapers, have undoubtedly contributed considerably to rural attorneys' awareness of the program. In addition, CLIC has also received coverage on radio and television, including a number of 10-15 minute interviews with the Project Director which were broadcast throughout the state.

Another highly successful public relations document is the Creighton Legal Information Center brochure. Two Student Assistants wrote and illustrated most of the brochure. The brochure explains CLIC's concept, and describes its background, staff, operations, and the impact of the program so far. It is available through the CLIC offices, and is distributed at all meetings attended by CLIC personnel (e.g., during the CLIC Speakers' Program), as well as to persons at meetings which have been initiated by the CLIC demonstration program.

The final public relations activity which has been undertaken by the project is CLIC's demonstration program. This program has engaged a good deal of the Project Director's time in recent months. It is intended to encourage law schools in other states with large rural populations to undertake the creation of a program similar to CLIC to serve their own rural lawyers. So far, the program has involved visits by the Project Director to three states--Montana, North Dakota, and California--and visits by representatives of the University of New Mexico School of Law to Omaha. CLIC has also been contacted by over 15 other states interested in exploring the concept of a Legal Information Center.

CHAPTER 4
REPLICATION AND POLICY ISSUES

Legal information services patterned after CLIC have a place wherever there are significant rural populations. Replication of a program such as the Creighton Legal Information Center requires, however, that planners consider a number of different policy questions and program alternatives. To some extent, the availability of the Creighton Institute for Business, Law and Social Research has led to specialization and thus to a more complex and larger organization than would be required in other states. Certainly the great effort which staff have recently devoted to national demonstration activities will not be required of other programs. The association with Creighton's Institute has also added to CLIC's complexity, in terms of the available equipment and staff shared by the two organizations and the inter-organizational relations that have developed. Moreover, CLIC has suited itself to the criminal justice resources and needs of Nebraska. This is, of course, highly desirable, and planners of subsequent programs should similarly base their planning activities on a thorough understanding of the needs of their particular state, including size, extent of rural areas, state laws, and public financing resources.

In this chapter a number of different policy, program design, organizational, and operational alternatives for other programs are discussed.

4.1 Policy and Program Design

CLIC policies and program design are based on a number of concepts which may or may not be appropriate for other programs. In the

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following paragraphs, discussion will be devoted to six such considerations, including "conflict of interest," research for civil vs. criminal cases, urban vs. rural practice, regionalization, methods of payment, and eligibility for service.

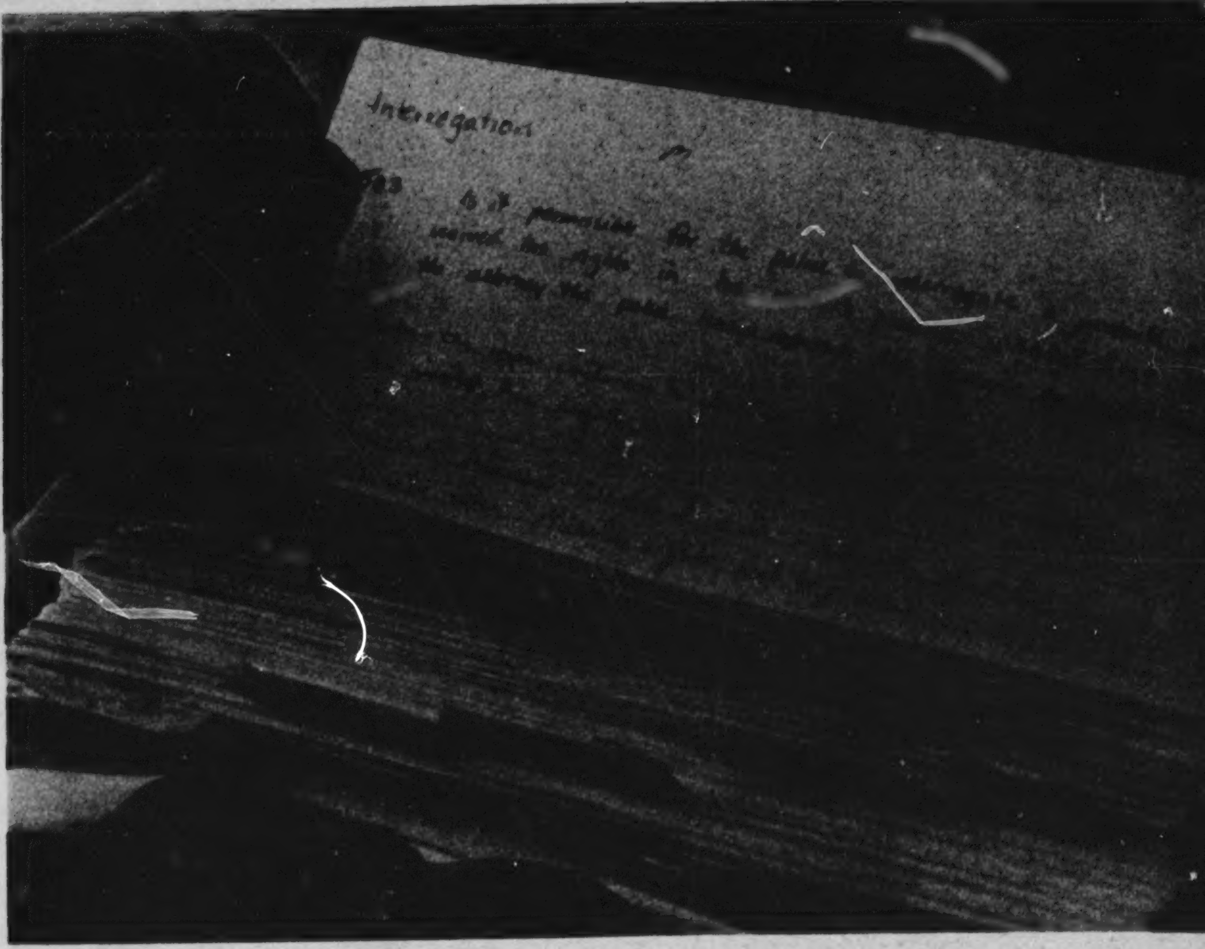
4.1.1 Conflict of Interest

Page 116 of the latest Procedures Manual (Appendix B) is devoted to the question of conflict of interest; the text includes the following statement:

> To avoid the pitfalls of a prosecutor saying "Creighton says this," and the defender saying, "No, Creighton says this," on the same issue in the same case, it is the responsibility of the Student Assistant before accepting a request to insure that NO other work has been done for another party on the same case. This is also done to prevent the unauthorized exchange of information which is confidentially communicated to Student and Research Assistants. This is done by checking the Case Card file. If previous requests have been made, a caller's request is denied without informing the caller of the name of the other user, even though it concerns a separate issue in the case.

Essentially, the attitude within the program administration is that both students and clients will benefit if all students are permitted (and even encouraged) to discuss cases among themselves, and to make suggestions regarding one another's research. This would obviously be impossible if students were researching opposite sides of the same case.

The argument against this policy is equally simple. A program with the primary goal of improving the quality of criminal justice in rural areas should not make matters worse in any situation, and yet that is what this conflict policy may do in a few cases. Whereas before both adversaries in a case may have been equally disadvantaged in researching a relatively esoteric point of law, once CLIC has provided research for just one of them,



Interrogation

[illegible] Is it permissive for the police [illegible]
[illegible] warned the rights in [illegible]
the attorney the police [illegible]

6

Interrogation

Is it permissible for the police to interrogate a juvenile who has waived his rights in his mother's presence without first contacting the attorney the police know represents the juvenile on another matter? [illegible]

[illegible] distinction between custodial and [illegible] after Miranda rights and [illegible] it has significantly unbalanced the scales of justice in that case. It is worth noting here too that the prosecutor knows about a case before the defense attorney is even appointed, and thus has a possible advantage in the race to become the "first" in "first come, only served."

In the opinion of the Project Director, CLIC's policy does not cause any serious problems for either defense attorneys or public prosecutors in the rural areas of the state or, for that matter, for the program itself. During the first two years of program operations, a total of 129 requests for services were denied; and of these, only 10 were denied due to conflicts of interest. (The majority of requests denied were from urban counties not served by CLIC, from retained private counsel, and for information concerning civil matters.) Most counties in rural Nebraska have an extremely small number of practicing attorneys, and members of the legal community are in almost all cases well-acquainted with one another. There is, therefore, an interest among these people in maintaining a spirit of cooperation, and it is uncommon that one attorney would object to another's receiving services from CLIC for a particular case. Attorneys apparently accommodate the "first come, only served," policy by agreeing to share the memorandum prepared or by agreeing to permit the students to do research for more than one user on the same case.

Thus, the conflict of interest policy is subject to some exceptions, and the program's means of handling conflict-of-interest cases offer at least one alternative to the problem. Upon request of the second attorney, CLIC will notify the first that a request for research has been initiated by another attorney. If both sides are aware that CLIC is researching issues for the opposition, and that the case might be discussed among CLIC staff, and if both sides agree to this arrangement, then program policy is to ignore the usual conflict-of-interest rule.

A second alternative, one which was not adopted by CLIC, would be to allow both sides of the case to be researched by separate students, but to prohibit the researchers themselves from exchanging information or opinions on that case. This, of course, would negate the potential benefits of student interaction in some cases. However, other students could be allowed to communicate with both sides, provided they maintained discretion concerning the case in question. Moreover, the final results of the research would eventually be made available to all after the requesting attorneys had given their permission for release of the memoranda.

4.1.2 Civil vs. Criminal Cases

At present, CLIC is devoting its resources exclusively to the field of criminal justice. The policy was set for a number of reasons, an important one of which is that criminal offenders have a constitutional right to counsel in cases where incarceration is a possibility, and indigent offenders have a right to court-appointed counsel. This, of course, is not true in civil cases. The right to counsel implicitly assumes that this counsel will have sufficient resources (including appropriate case authorities) for an adequate defense. In many instances, this would not be possible without CLIC. Most of the attorneys in rural areas of the state, even if they have large personal law libraries, are likely to be missing many criminal law references, since many leading criminal justice cases are tried and decided in such urbanized areas as California and New York. Only large law libraries (i.e., those located in the Supreme Court or in law schools) are likely to have extensive case law holdings from other states. Creighton University is one of the few libraries in the state of Nebraska that qualifies on this ground.

Another reason for CLIC's emphasis on criminal law is, in a sense, a political one. Essentially, the interest of the state rests more with the resolution of criminal matters than with civil matters. Criminal litigation is closely related, in the minds of most people, with the enforcement of a community morality, while civil disputes are a matter of less intense interest, in that they involve private disputes rather than questions of community morality. Since CLIC is a state-supported program, it is properly more concerned with criminal matters in which the state's interest is greater.

Yet another important reason for the emphasis on criminal cases is that, in much civil litigation, both the defendant and the plaintiff have sufficient money to hire lawyers who will in turn be able to afford the time to do legal research on their own. If the plaintiff in a suit for money lacks sufficient funds to employ counsel outright, the attorney may be hired on a contingency fee basis. Civil cases which do not involve monetary questions are fairly infrequent, particularly in sparsely-settled areas, and thus it seems likely that they can be provided for by voluntary representation, such as a bar association service, or by some such occasional provision.

This is not to say, however, that the possibility of performing research in civil disputes is entirely obviated for a program such as CLIC. The Project Director has, in fact, considered expanding operations to include civil cases. The most feasible alternative in this instance would be that of a civil law research service which would charge specific fees for such research.

4.1.3 Urban vs. Rural Practice

As has been noted, one of the bases of the CLIC operation is serving a rural clientele. The program is particularly useful in its setting because it supplies two services which were previously unavailable in rural Nebraska: dissemination of information about current criminal justice developments in the state and in the nation and provision of legal research services and materials.

The Project Director has emphasized that, in planning for any operation of this kind, it is important to apply appropriate definitions of the terms "rural" and "need for services." The census definition of the former term, which is based on a population of less than 2,500 within a given geographical area, is not alone sufficient. An area of much denser population will not necessarily have an adequate law library or other research base. "Need for service" must therefore be considered. An estimation of this need may be based on the presence of a major law library within reasonable traveling distance, say within a 50 to 150-mile radius of a given locale. To illustrate this point, there are communities in Nebraska of more than 5,000 in population whose need for service is greater than that of communities with

populations of 1,000. Thus, in planning for a program similar to CLIC, several factors other than rurality must be taken into account, including the number of attorneys practicing in the state as a whole and their geographical distribution, whether state and county judges are able to employ law clerks to do research, etc. Using criteria such as these, the need for a program such as CLIC would not appear to be as great in Northeastern New York State as it would be in Montana, although the populations of the two areas are both sparse.

To some extent, then, precise replicability of the Creighton Legal Information Center is a function of the "rurality" of the state to be served. However, there is no reason to assume that a program such as this, with some modification, could not function equally well, and be as useful, in an urban setting. The concept of a legal research service which could supply pertinent memoranda on relatively short notice would appear to be entirely justifiable in the case of urban attorneys who, because of heavy caseloads, have insufficient time to do extensive (or even adequate) legal research. Such clientele would include not only publicly-funded lawyers, but also small firms or solo practitioners. The Project Director at CLIC has stated that such modification of the program would not be impossible, although complete service to the two urban counties in the state would probably mean a 25 percent increase in program costs, given the considerably larger number of attorneys (and the potential for greater demand for services) in those counties. At present, CLIC is offering limited services to Douglas and Lancaster Counties, in the form of reprints of already-released CLIC memoranda. Attorneys in these counties also receive the monthly newsletter.

4.1.4 Regionalization

When CLIC program operations were initiated, there was considerable speculation concerning the possibility of expanding the program to a regional operation. It was felt, at the time, that such an arrangement might offer attractive economies of scale, among other benefits:

> The practical results of a multi-state model would most likely be increased efficiency of operation, a more thorough understanding of criminal

> justice problems and issues which are indigenous to the particular section of the country, quick access to the criminal law of neighboring jurisdictions and compilation of statutes and case law on multi-state criminal law problems, i.e., extradition. The efficiency and practicality of such a model would also be enhanced if the regions were tailored to fit, as closely as possible, the federal judicial circuits after these are reconstituted.
>
> A sample regional model is provided by the Midwestern states of North Dakota, South Dakota, Nebraska, Iowa, Kansas, Missouri, and Arkansas. One or two legal assistance centers could adequately serve the multi-state unit, for example a Creighton Law School unit and a unit at the St. Louis University School of Law.*

In the Phase II refunding application to LEAA, however, the idea of a regional center was rejected for a number of reasons. First, it was thought that it would be difficult for project staff to maintain familiarity with the laws of several states--and criminal law is predominantly a matter of state law. Assigning one student "team" to each state would limit the flexibility of the program: students could not easily be switched from project to project. More important, the problem of state and local loyalties would probably present a serious obstacle to the implementation of a multi-state or regional organization, at least in financial terms. As the application noted:

> It is highly unlikely that the political realities would allow for a legislatively funded contract with a university and law school located in a different state, in those states which already have a law school, especially a state-operated law school. . . While this obstacle would be less difficult if the model for continuation was a fee generation model (where each user pays for the services he uses), it is still possible that state

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* Phase I Project Application, January 1, 1974, p. 5.

> and local loyalties would hinder the provision of services on a regional basis.*

The conclusion of the project staff on this point is that a multi-state or regional model would probably only be feasible (or justifiable) in cases where one state which has a law school and legal research center would serve a neighboring state which had neither.

4.1.5 Methods of Payment

The CLIC project originally operated under an LEAA grant which was terminated in October of 1976. It currently receives funding from the Nebraska Commission on Law Enforcement and Criminal Justice, although the project staff are pursuing a number of alternative funding methods. These essentially involve two categories: one in which CLIC services are provided to users free of charge (and are paid for by some other agency), and one in which services are provided to users at a fee.

The Phase II funding proposal to LEAA outlines what is currently considered to be the most desirable option by project staff. This would be to obtain a contract with the Nebraska Department of Administrative Services with funds provided by the state legislature. Basically, an Attorney General's Office could not provide such services directly because of the potential conflict of interest resulting from its responsibility to represent the state in the prosecution and appeal of criminal matters. Thus, judges and defense attorneys would not always feel free to use the services of this office, and to relate confidential information in the development of materials relating to memoranda. However, CLIC staff feel that it would be possible for non-judicial departments to contract for such services. In other states considering such a funding alternative, the size of the contract would vary depending on the size of the state, the number of potential eligible users, and the frequency of use. In Nebraska, it is estimated that the contract will be for approximately $125,000 annually.

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* Phase II Project Application, June 1, 1975, p. 15.

Although any neutral department is preferred, it is also possible that the state could contract with a legal information center through some educational department. In states with state-supported law schools, a simple addition to the school's annual appropriation could cover the operation of a legal information program. Other possibilities for continuation of the free-of-charge alternative include funding by federal agencies such as LEAA, or by a combination of state and federal funds. It is also possible that the law schools in some states might find it feasible to contribute actual funds (in addition to needed facilities such as space) to a project such as CLIC. Under this option, for example, the law school might provide monies for the project in lieu of state or county taxes from which it is exempt.

The second alternative, payment by the users of CLIC services, offers a number of options. The first option would involve direct payment by the user of the service (judge, county attorney, court-appointed defense counsel) on a memo-by-memo basis. Users could pay out of their own pockets and later be reimbursed by the county, or an arrangement could be set up whereby each county would be billed monthly by the project for the number of memoranda produced for users within that county. This particular option involves a drawback, although it is only one of appearances. When CLIC's entire budget is divided by the number of memoranda produced annually, the cost per memo seems excessively high. That cost actually includes additional CLIC services such as the newsletter, the speaker's program and publicity. The actual costs for production of memos are much more reasonable, but this would not be immediately apparent to the users or counties paying for memos on a request by request basis.

The second option would essentially eliminate the problem cited above; it would involve each county's paying for CLIC's services on a subscription basis. For example, a county might pay a specific fee, which would provide it the required number of newsletters for all users (attorneys, judges, etc.) residing within its limits, in addition to a limit of perhaps 10 original memoranda and 100 reprints. Any requests above these limits would cost extra. This arrangement would require much additional paperwork on the part of the project, in order to keep track of the number of memoranda and reprints provided to each county each subscription period.

The third option would be to have the state pay for all program costs initially, and then reallocate charges to counties on the basis of the number of memoranda and reprints requested by users in the counties each month (or each quarter). This would also involve additional paperwork for the program, and a small amount of paperwork for the state and counties.

All of the payment-by-user options have one advantage in common: charging the governmental units (i.e., the counties) which actually use CLIC would undoubtedly serve as an incentive for those units (or users within them) not to request unnecessary services. However, the options share the disadvantage of increased administrative costs involved in keeping additional books for user-related budgets and billing various user agencies. Another possible problem, at least under the first option, is the relative inefficiency of requiring county board appropriations in amounts which would generally be under $250 for each service contract. Moreover, with paid operations such as the ones suggested, there would be the problem of start-up costs; some type of initial grant would undoubtedly be required from the state, the law school, or some other agency. In addition, the immediate financial insecurity involved in running such a project might discourage law schools from creating such an entity.

One advantage of the first alternative discussed is that, through use of state block grants under the LEAA program, a state could "ease into" funding such an organization on a gradual (e.g., three-year) basis, until the operation had a well-established reputation to stand it in good stead when legislative appropriations for the full contract price were required.

4.1.6 Eligibility for Service

At present, program resources limit CLIC services to users in publicly-funded positions (judges, district attorneys, court-appointed defense counsel, law enforcement officials, etc.). Since it is using public funds exclusively, CLIC naturally feels that its first responsibility is to serve criminal justice personnel who are also supported by tax dollars. CLIC staff would not object to serving private attorneys, were there sufficient monies available to do so. However, staff believe that it is important to avoid any implication that public funds are being used to serve private attorneys in fee generating cases. Therefore, it would be necessary to institute a set of fairly complex billing and budgeting procedures, so that public and private clients would be billed differently, and so that charges for memoranda requested by private attorneys would be appropriate. It is also possible that the arrangement would require setting up a "sliding scale" of charges for attorneys serving indigent and non-indigent clients.

4.2 Organization and Operations

As noted in Section 4.1, CLIC operational procedures and staffing structure have been influenced to a great extent not only by their organizational and administrative setting, but by the philosophical and managerial orientations of program staff. As a result, the program has taken on certain characteristics which may or may not be viable in other settings, with other staff and administration. Certain "basics" are of course necessary for adequate operation of programs of this type. In this section, several of CLIC's organizational characteristics, including location, staff, equipment, and operations, will be discussed, and possible variations on these characteristics will be noted.

4.2.1 Location

In the opinion of the staff, the only appropriate location for a project like CLIC is within a law school, preferably the law school of a state university. Law schools combine the two features which are absolutely essential to program operation: (1) large, well-equipped research facilities; and (2) relatively inexpensive but competent labor (viz., law students in their junior and senior years).

The Project Director feels that, on the whole, any law school within a given state can serve as an appropriate site for operations of a program like CLIC. However, the more research-oriented a program is, and the more extensive its library holdings, the more desirable it becomes as a potential site. State law schools may be particularly suitable, given the "charter" of state schools to provide services to the state and the community.

4.2.2 Staff

The size and complexity of CLIC's staff are due primarily to two factors: (1) its location within the Creighton Institute for Business, Law and Social Research, and (2) the experimental nature of the program, and the resulting need to try out a range of different staffing configurations. (It is true in any event that the extra staff members, with their various fields of expertise, lend richness to the program and increase its capacity to undertake innovative new projects.) Legal information centers in other states may not require as large a staff or as complicated an organizational structure. The CLIC Project Director suggests that a Program Director, one secretary, and a number of student researchers would suffice. In fact, both Montana and North Dakota, which recently began CLIC-like programs, have precisely this staff structure.

An important consideration for those planning a program similar to CLIC is the extent to which the law school and/or university in which the project will be located are willing to provide the project with various types of supplementary personnel and services. As noted in Chapter 2, Creighton University performs a number of functions for CLIC, including accounting, keypunching, personnel and library services.

The question of how many law students will be needed by legal information centers in other states is a difficult one to answer; the CLIC Project Director concedes that no "scientific techniques" have been developed to determine basic staffing requirements in this area. He suggests that planners in other states follow a three-step procedure. First, they should obtain figures for the number of judges, county attorneys, and lawyers who are practicing in the state and for the size of the criminal caseload. Second, they should compare these figures with the figures available for Nebraska, and thereby arrive at some reasonable estimate of their potential level of activity (e.g., if the criminal caseload in the state is half that in Nebraska, only half the number of student researchers may be needed). Third, they should initially hire only a percentage of the total number of student researchers they expect to eventually employ (e.g., 50-75 percent). This last step will permit gradual expansion of the program, while obviating the need to lay off researchers because not enough work is initially available.

The subject of staffing includes another question which has been carefully considered by CLIC administrators since the program's inception: should a student researcher at CLIC be compensated in money, academic credit, or both? The answer, in CLIC's case, has been to remunerate student services with money only. The Project Director believes that academic credits are relatively easy for top law students to obtain, and, in some ways, are not an appropriate reward for the kind of work students do at CLIC. The final evaluation report for Phase I noted that, while the program provides an education, for which academic credits are traditionally awarded, and while it makes use of students' services, for which monetary rewards are appropriate, it has been the practice within the Creighton Law School not to award a student credits and money concurrently. Students often compare the CLIC program to other educational activities, and generally believe that their educational experience in CLIC is equivalent to or better than those offered by other activities including moot court, law review, law clerking, and sometimes even classroom education. In terms of the nature of the educational task, the closest activity to CLIC is a clerkship. In clerking, of course, students receive remuneration, but no academic credit. Aside from the recognized educational advantages of CLIC, many students have financial needs which CLIC allows them to fulfill in an interesting, relevant manner.

Students themselves are divided on this subject. Many view their work with CLIC to be somewhat akin to a law "lab" in which they are able to make practical application of the theory which they learn in the classroom, and strongly feel that academic credit should be awarded in this context. Others, however, feel that academic credit would be inappropriate. On the evaluation form which students were requested to complete for the program, students expressed the following reactions:

> "Yes, if one receives credit for working on the law review, which is of questionable merit anyway, one should definitely receive credit for working

> for an organization that adds so very much jurisprudence in fact."
>
> "The work is definitely of sufficient value to justify academic credit. I have learned more working for CLIC one summer than I did my entire freshman year."
>
> "The CLIC work is too important to award merely academic credit. The effort and responsibility borne by the student deserves recompense in something far more tangible than a few hours of academic credit. If, let us say, 3 credit hours were awarded for CLIC work (assuming 15 hours a week) then the student will have received about $225 value, for his services during a 14 week semester. Whereas, assuming a minimum wage of $3.50/hour, the student would otherwise receive about $735 for his services. Since the value placed upon CLIC services by users is much greater than the value reflected in a $3.50/hour wage, it would be grossly unjust to give only a few paltry academic credits for the level of work done. I personally would not be motivated to do as much work as I have done if the program were run for academic credit."

In addition to considerations of staff size and support, potential replicators should also examine their possible equipment needs. While most of the fairly specialized equipment in the CLIC offices is highly useful, it is not essential to the operations of the program. Equipment issues and costs are discussed in Chapter 5.

4.2.3 Operations

As illustrated in Chapter 3, the CLIC program carries out numerous operations and activities which might not be appropriate or necessary for other programs of this nature. In fact, apart from the actual legal research for and production of memoranda, the publication of the monthly newsletter, and some basic evaluation activities, CLIC's other operations need not be replicated. The most expendable of these is the LEAA funded national demonstration effort

in which CLIC is currently involved, since the entire purpose of this project is to disseminate information which will allow other states to institute their own legal information centers. While CLIC continues in operation, it is reasonable to assume that no other projects will want or need to undertake similar activities.

At least one type of evaluation which CLIC has undertaken in the course of program operations will probably also be unnecessary for other projects. This was an effort to determine potential users' awareness of CLIC; two telephone surveys were conducted--one during the eighth, and one during the fourteenth month of program operations. Although these surveys produced some useful information, they essentially revealed that a combination of advertising and word-of-mouth was sufficient to inform people about the program, and that their reactions to it were similar to those expressed on the evaluation forms turned in by users after they receive the requested information. Thus, the Project Director feels that, in most cases, projects with limited budgets might be able to eliminate this marketing effort. By contrast, other evaluation efforts, particularly the on-going one which determines users' satisfaction with and reactions to the project (detailed in Chapter 6), are vital for continued efficient operation of a legal information center. Analyses of usage rates and other basic project statistics are also indispensable.

The special projects performed by CLIC--including compilation of the two bibliographies and the Judge's Deskbook--also represent "supplementary" efforts. Though they have been well-received and have undoubtedly augmented CLIC's reputation in Nebraska, they are not essential to a program of this type. Naturally, if sufficient resources are available, such projects are advisable. In certain cases, the documents created might even be sold to members of the legal community. Before undertaking special projects of any kind, it will be necessary for program staff to determine the potential demand for such a project in their state, the resources which will be required to complete the projects, and the potential conflict between students' and/or administrators' time expended on the project, and time expended on regular production of memoranda.

Another operational aspect of the project which could be modified is the newly-instituted Speakers' Program. Given the positive reception to the Speakers' Program, it is possible that new projects will want to consider introducing such an effort early on, as a means of acquainting practitioners in rural areas of the state with project staff. Certainly, personal contact with potential users is a highly desirable way of advertising a new legal information center. On the other hand, this type of program can be relatively expensive in terms of student time and travel costs; for programs with limited budgets, it does not represent a "must" in the operational sense.

CHAPTER 5
COSTS AND PROJECT BUDGETING

As numerous observations in the preceding chapters indicate, the CLIC model for legal information centers has many "optional" elements. Where the money comes from, whether some users pay, how the project is organized, the range of special projects (if any) undertaken--all these are examples of ways in which similar projects in other jurisdictions may vary. Since each of these differences in policy will affect the new project's budget, the simple adoption of the CLIC budget as a model is not likely to be a good idea in any given situation.

Therefore, this chapter will not present CLIC's budget in precise detail. Brief summaries of CLIC's past budgets will be provided so that the reader can understand the experience by which the ensuing discussion is informed. A category-by-category discussion of possible budget items will then follow, with its focus on the considerations of cost and quantity which are relevant to a planner constructing a budget for a new project.

5.1 Annual Budget

The Creighton Center's budgets for three years--two past and one to come--have remained fairly consistent at an overall annual level of around $130,000, although quite a few modifications in structure and approach have taken place. A model budget similar to those of states which have adopted the CLIC approach is shown in Table 2.

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Table 2

Estimated Annual Expenditures

Personnel			
Project director	$ 26,000		
Legal Secretary/Admin. Asst.	10,000		
Salaries	36,000		
Fringe + FICA (10%)	3,600		
		$ 39,600	
Evaluation/EDP consultant	2,000		
Student assistant, research aides	32,000		
		$ 34,000	
Total personnel			$ 73,600
Indirect Costs (Approximately 50% of personnel costs) (includes offices, utilities, library and acquisitions, central payroll, personnel, accounting, purchasing, keypunching, university facilities, local telephone, etc.)			$ 36,800
Other Costs			
Printing, duplicating, advertising		5,000	
Equipment		6,000	
Supplies and postage		3,200	
WATS line		4,400	
Travel & seminar expenses		1,000	
Total other costs			$ 19,600
TOTAL			$130,000

Among the budget modifications which took place between the first and second phases of the CLIC project were the following:

- The amount allocated for student research has increased significantly, due both to wage increases and to the increased volume of requests handled by CLIC.

- The amount of attorney time available for supervision of student research has been increased somewhat, with the expense offset by the elimination of the need for intensive organizational work which existed at the project's initiation.

- The assistance of a research librarian, who helped CLIC assemble a reference library and a bibliography of criminal justice resource materials available in the library, is no longer needed.

- Similarly, library acquisitions and advertising are drastically reduced items in the budget of the now well-stocked and well-known center.

In both of CLIC's grant terms, expenditures have been a bit less than anticipated. Thus, the first grant supported the project for over twelve months, and the second did the same. We turn now to a discussion of specific categories of expenditures.

5.2 Administrative/Professional Staff

As indicated in Chapter 2, CLIC's professional staff has consisted of law professors--either currently associated with Creighton or as in the case of the Supervising Attorney, formerly associated with another law school. The reason for this is to maintain the high quality of research and effective supervision. Clearly, there are many excellent lawyers who are not "professorial types," but who have mastered legal research and could impart their learning to law students. CLIC would not rule out hiring such an attorney; however, the project's experience has been that well-qualified lawyers who have a strong interest in legal research

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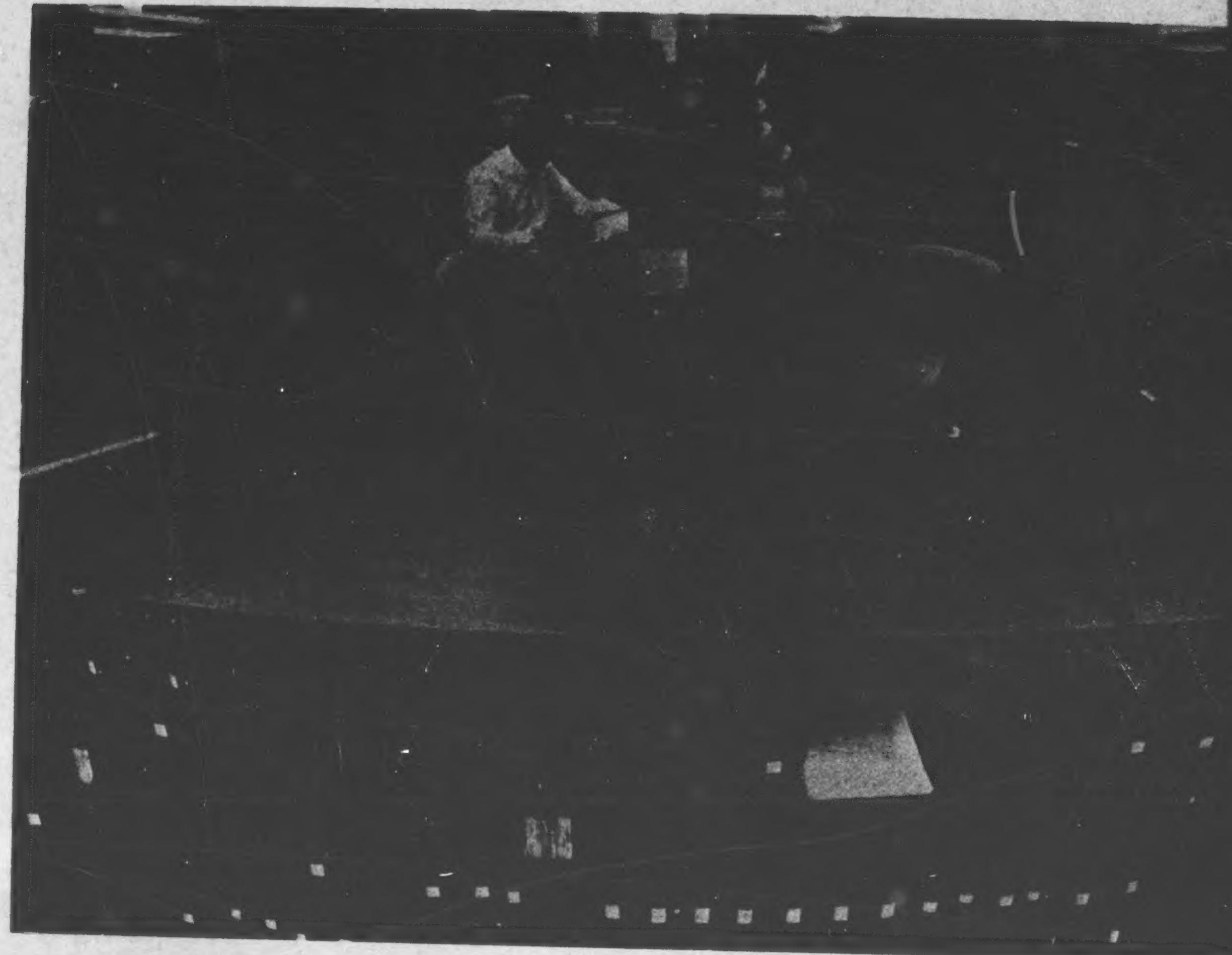

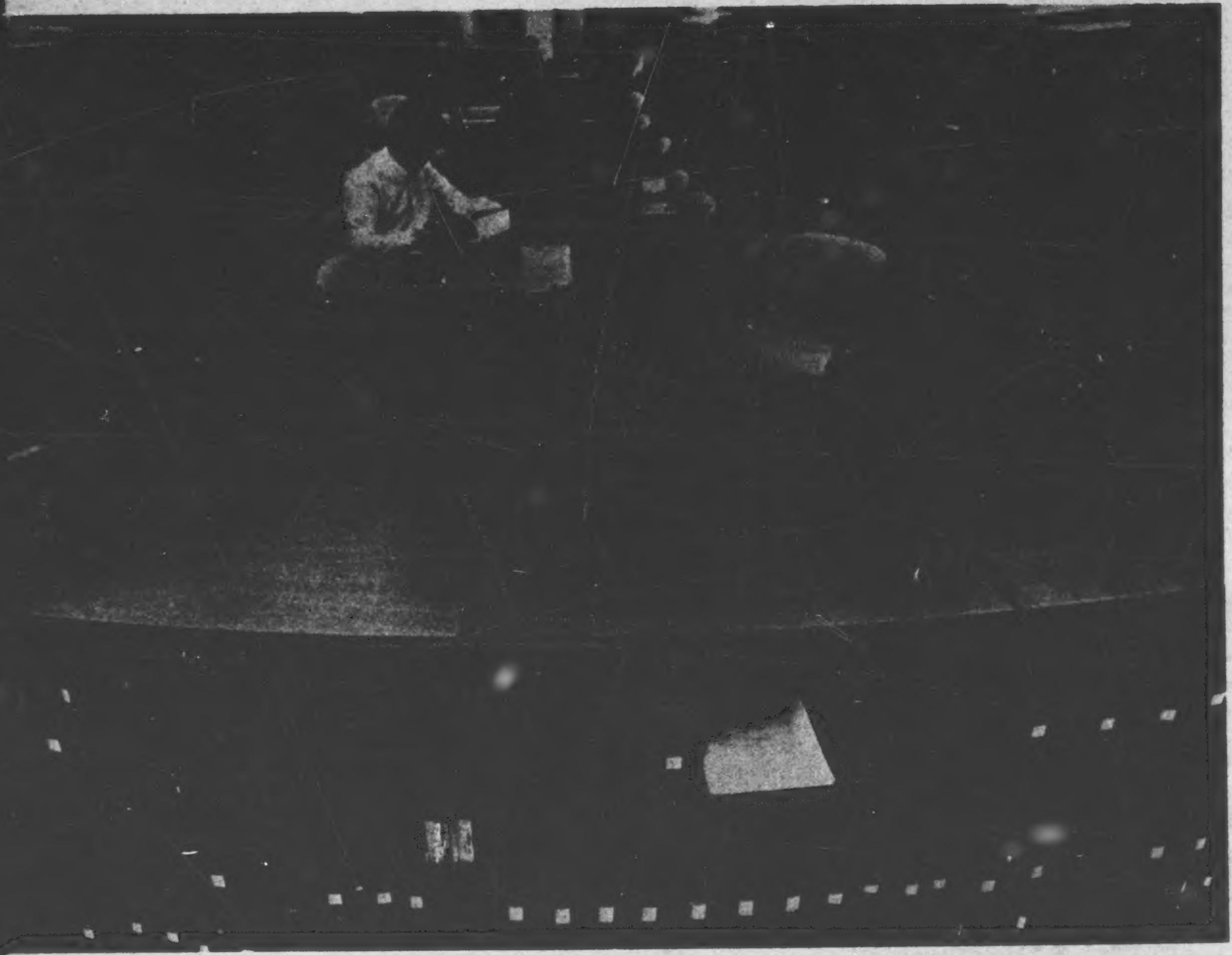

and legal education have already shown their preferences by involvement in law teaching. CLIC's advice is to hire highly-qualified "professorial types" and to pay the necessarily higher salaries. In Omaha, CLIC found that $20,000 did not attract first-rate candidates; $26,000 did (with compensation on a twelve-month basis, rather than the typical nine-month academic year).

How much professional time will be needed is another question to be addressed. Further scrutinized, it has three parts: start-up, administration, and research supervision. As for the first, CLIC's Project Director worked on and off for a year and a half developing the project idea, and then full-time for the better part of a summer to begin operations--hiring staff and students, designing forms, laying in supplies, making policy decisions, devising project procedures, etc. Two full-time students and half of the time of another professor were also devoted to these tasks during this period.

Administration of the program beyond the start-up period is not especially time-consuming. CLIC's Project Director spends some 15 percent of his time on administrative matters related to the program. However, program administration--hiring and setting policy for student researchers and aides, tending to financial details, reporting to funding agencies and overhead organizations such as the host law school--tends to be relatively insensitive to the size of the program. Thus, the CLIC experience suggests that, after an intensive initial period (most likely a summer vacation, during which faculty and students can work on the new project full-time), purely administrative matters will take up at least 15 percent of a Project Director's time, or five or more hours per week.

Research supervision is a professional staff obligation which in effect goes through a "start-up" period every year when new student researchers come on board. If the students are closely supervised as they write their early memoranda, and each correction and revision is thoroughly discussed with them, they develop improved research and writing skills very quickly. Thus, by mid-semester, most students' memos need relatively little reworking and the Supervising Attorney, having trained the students well, need not devote as much time to research supervision. Over the course of a year, CLIC's experience points to an average time requirement for supervision of two to two and a half person-days a week for a project, with an output of 300 or so original memoranda plus special projects and perhaps 250 special information responses each year. Another project with a different expected volume should probably modify this CLIC estimate proportionately.

5.3 Student Staffing

Budgeting for student staff involves two questions: how much to pay and how many to hire. At CLIC, the first question is answered by a simple rule: match the best pay generally available to upperclass law students for comparable part-time or summer work. Generally, this means meeting the going rate at the better downtown law firms which hire law students as clerks. With CLIC's competitive advantages over the law firms -- flexible hours, no travel time, no need to dress up for work, and the special interest of criminal law questions -- this level of pay has always allowed the program to claim a very high quality of student researcher, including law review editors, an editor-in-chief, a valedictorian, and others at the top of their classes. To learn the "going rate" for part-time work, the CLIC Project Director simply asks the Director of Placement for the law school.

The second important question under this heading is how many students to hire. At CLIC, student researchers work full-time during the summers and roughly half-time, or a little less, during the school year. At least as long as first-year law students are not hired, CLIC's experience has been that the students are able to budget their time well enough to keep up with their studies while working up to 20 hours a week.

The total number of student hours required for the program can be estimated in advance, within a range, by making an estimate of the number of original research memoranda that will be prepared. The Creighton program's records reveal the following:

- In the project's first year, about two-thirds of the contacts were requests for original memos. The memos took an average of 14.5 hours each. The amount of "administrative" student time not devoted to a specific original memo or special project -- time spent on answering inquiries for general information, correspondence, keeping office hours for the telephone users, and so forth -- was about 46 percent of the memo and special projects time.

- In the second year, only a third or so of the calls were for original memos, due to the increased availability of prior memos. The original memos required 16.5 hours each on average. Administrative time, by then the primary charging category for two-thirds of the inquiries, increased in proportion to the original research and special projects time to about 200 percent of the memo and special projects time.

Within the parameters suggested by these observations, any similar program could budget the number of student hours required by the following process:

1. Allow for student administrative assistance sufficient to handle the start-up period -- CLIC suggests a summer start-up involving one or two summer student administrative aides.

2. Estimate the number of user calls and letters expected (see Chapter 6).

3. Assume that one-third (in the first year) will lead to memo assignments.

4. Estimate the required research hours, based on, for example, 16 hours per memo.

5. Add to this total any time needed for planned special projects.

6. Estimate administrative time by taking 50% of the non-administrative total.

7. Ensure that the "administrative" total is at least sufficient to provide for the necessary office hours coverage.

5.4 Other Staff

The typing, administrative, and support work involved in a legal information center program should not be underestimated. Fair-sized law firms often have two or three non-legal employees for each lawyer, and a legal information program is quite similar in many respects to a small law firm. Consider the non-legal, non-management functions which must be performed:

- building, maintaining, and managing the library;
- typing drafts, rewrites, and final versions of memos;
- typing, composing, laying out a newsletter;
- preparing newsletters for mailing;
- keeping a mailing list up-to-date;
- seeing that every research response is followed by an evaluation questionnaire letter, and that the responses come back;
- keypunching or tabulating questionnaire data;
- paying the bills and keeping the books;
- keeping the project supplied with stationery, forms, and so forth; and
- doing incidental typing, administrative, and organizational work.

For CLIC's size, the program has found that one and one-third administrative and clerical support people are needed, despite the facts that (1) the financial systems and library are all handled by the university as part of its normal overhead; (2) almost all the typing is done on a magnetic-card machine which allows for easy revision without complete retyping; and (3) the mailing list and the data computations for reports are all handled by computers.

Almost any similar program will find at least one full-time typist/secretary a necessity, even if the host university provides basic administrative (and perhaps even back-up typing) capabilities. Just putting together and distributing a newsletter, even if the Project Director and Student Assistants do the writing, should take one person at least a week per issue (and more in the beginning). Typing legal research work, with the usual flourishes of citations and footnotes, is time-consuming work regarded as a specialty -- with or without the aid of a "mag card" typewriter. Keeping up a mailing list, if the program has to create and maintain its own list, can consume hours of correcting, changing, and re-arranging. Thus, in the model budget, the Project Director is budgeted full-time to supervise or personally conduct these activities with the support of a highly qualified legal secretary rather than a typist.

5.5 Computer Support

The most basic "model" for a legal information center is one which does not require any computer-based data processing. It is not at all unrealistic for a legal information project, even one of CLIC's size, to be run without computer support. The ways in which information in the files and on the follow-up questionnaires utilized by CLIC could be manipulated would be limited, but many important bits of data -- average number of hours required per memo, overall satisfaction ratings, each student's performance-measuring statistics -- would be fairly easily calculable. Similarly, a non-computerized mailing list operation would be more tedious to maintain and to generate labels from, and probably a bit less neat, but certain not unmanageable.

Because of CLIC's experimental nature and the need to document every aspect of its performance for evaluative purposes, CLIC used electronic data processing rather extensively. The project has thus been able to:

- analyze process and evaluative statistics intensively for clues to the program's appeal, usage, and impact;
- generate extensive reports on its activities;
- use its data base for special purpose hypothesis-testing calculations;
- call up both old and new arrays of data and statistics at any time;
- make mailing list changes at any time, effective immediately; and

- have the mailing list sorted and labels printed out in zip code or any other order, for any specified groups -- judges only, users only, potential-but-not-actual users from certain counties, etc.

There are two separable data-processing uses which CLIC has elected, and which a new program may want to consider: the monitoring/evaluation file, and the newsletter mailing list.

The monitoring/evaluation system, described in greater detail in Section 6.1, enables the project to compute virtually any data in the file for any period or any category of cases or users. Designing the program required some effort by an evaluation specialist and programmer, but new programs now may find the way considerably eased by the availability of CLIC's program (in SPSS, a widely-used programming package) for its system. Particularly if records and evaluation questionnaires similar to CLIC's are also adopted, the process of relabeling variables and making any other necessary adjustments should not require more than a week or two. Starting from scratch (for example, using another language) would be somewhat more difficult.

The mailing list system at CLIC is a very flexible, real-time remote-entry set-up which not only files the names and addresses but keeps track of several other variables for each name -- whether or not the addressee has ever contacted CLIC, for example. Again, the CLIC computer program (this one in COBOL) is available for program replicators who want a similar system. CLIC's Project Director suspects that few other programs will want a mailing list program at CLIC's level of sophistication, although a basic file/correct/reorder/printout approach might be more desirable.

Once programs are written, their operation is not especially difficult. The staff required include one person, reasonably familiar with the programs, to make the periodic "runs" of data (at one day per run, perhaps), and an available consultant/programmer to handle any changes or special problems that arise (with CLIC's one-day-a-week consultancy being a high upper limit). Updating the mailing list will require a fair amount of typing, whether or not a computer-based system is used; the format for changes will simply differ.

Actual computer charges -- storage, access, computing, printout -- will vary with the type of arrangement made for computer use. CLIC uses a commercial time-sharing service and pays about $280 monthly, of which roughly three-quarters represents charges related to the mailing list. Without CLIC's luxury options of "real time" instantaneous remote access, voluminous periodic reports, and multiple options for use of the mailing list, however, the charges would be less. And if an arrangement could be made for use of a university computer facility (and programmer consultants), the charges might also be considerably less elsewhere.

5.6 Other Equipment

In addition to the computer time just mentioned, and to routine office typewriters, the CLIC program utilizes three additional pieces of equipment: an IBM typewriter with magnetic-card memory, a "composer" which justifies (evens) lines to make columns for the newsletter and forms, and WATS lines. The only vital pieces of equipment are the IBM magnetic-card typewriter and the WATS lines.

CLIC's staff and Project Director are enthusiastic about the advantages of a "mag card" or other memory typewriter over conventional typewriters in the production of frequently revised and corrected legal memoranda. Clearly, the Mag II machine, on which only changes and additions need be typed when a report is revised, is a highly efficient typing tool in the hands of a skilled operator. However, it is also more costly than conventional typewriters.

WATS lines are an important part of the CLIC program. As a symbol of accessibility, of the program's desire to listen to users, a toll-free telephone number is a necessity. Strictly from a financial point of view, the use of WATS lines would be justified only if long-distance charges otherwise would exceed the WATS charges. By this test, CLIC may or may not be justified in using WATS, since it is apparently using the lines for a bit less than half of the allocated 20 hours per month (ten incoming, ten outgoing).

But this calculation is only part of the picture; having WATS lines undoubtedly increases the number and length of user contacts and encourages the researchers to call back for clarifications whenever they are in doubt. And increased contact and more and longer calls back to users, costly and to be avoided in business, are surely desirable for legal information programs. They mean more services provided to more people and higher quality, more properly directed research. Thus, unless the rate of WATS use is very low, a program should probably seriously consider installing a toll-free telephone.

5.7 Other Budget Items

By and large, the remaining categories of expenditure are fairly obvious in their appropriateness and their general magnitude. Postage costs, assuming the ability either to predict or to absorb rate increases, can be calculated from the planned size and frequency of newsletter circulation. Printing costs for newsletters and forms can be estimated in the local market. Fringe benefits, in a university setting anyway, will be predetermined. Only one item, university overhead, requires any special explanation.

The overhead fee to Creighton University is the single largest item on the CLIC budget. While it covers much that would otherwise require direct expenditure -- the library, offices, utilities, -- it also contributes to many general expenses related only to the operation of a university in general and not to CLIC in particular. Even within the category of resources used by CLIC, many (perhaps close to all) of these costs covered by the overhead fee are not marginal (new) but fixed or "sunk" costs -- the law library is an obvious example. This does not mean that Creighton's charges to CLIC were at all unjustified -- CLIC in a sense receives great excess value from the host university. Access to the university's 100,000-volume library, as well as its excellent statewide reputation, are two important assets. However, the financial composition of "overhead" does mean that there is likely to be some room for bargaining in setting an overhead rate in a CLIC-type situation. The university is going to spend, or has spent, most of the funds at issue anyway and thus program contributions are in part "found money" to the school. In fact, if the legal information services program is being state-funded at a state-supported law school, the costs will be met from the same residual source regardless of whether a "fee" is included in the project budget. On the other hand, the law school does not have to make its facilities available to a program such as this one at any price, and the program does have to have an available library. A well-cast appeal to a law school's responsibility to the community, and the bar of the community in which the school operates might even result in overhead costs being a public service contribution by the school.

CHAPTER 6
RESULTS

This chapter summarizes, mostly in quantitative terms, the impact that the CLIC program has had on the administration of criminal justice in rural Nebraska; the first section discusses the system used for determining that impact. As with the remainder of this manual, the chapter is intended primarily to provide ideas and guidance for planners of potential legal services programs in other states.

6.1 The Monitoring System

The CLIC project has an extensive computer-based data processing system for project monitoring and for evaluating CLIC's impact in the state. As noted in Chapter 5, the level of detail of the system and its computerization are both aspects of the CLIC program which are clearly optional, especially for a smaller legal information program. (In Creighton, these features exist primarily due to the fact that CLIC was an experimental model.)

Even with these observations in mind, the importance of having a reliable feedback mechanism of some kind should be emphasized. A legal information program should be able to make planning and policy decisions based on some knowledge of facts such as:

- the volume of requests being received;
- the types of requests received;
- the usefulness of the responses to the users, including the level of user satisfaction achieved by each researcher; and
- some idea of who the users are.

p 70 blank

To obtain this information, some variant of the CLIC evaluation system is a must. The first part of this chapter, therefore, reviews CLIC's monitoring system.

First, an overview: the CLIC monitoring information system -- not to be confused with the project's files and records, which are administrative and managerial in nature -- is a computer-based file which contains two kinds of information about every contact with every user CLIC has ever had. The first is basic processing information: who, when, what, how long, etc. The second is user opinions of the program, their satisfaction or dissatisfaction, their needs. The system generates reports which enable the project to judge the nature and extent of the demands for service, the degree to which it is succeeding in satisfying users, the relative performance of each staff member, and changes in demand or performance over time. In addition, any indications of really serious dissatisfaction with the program are singled out and pursued individually.

6.1.1 Data Collection and Processing

The basic data capture forms for the CLIC program are two: the Contact Summary Form, and the Project Evaluation Form; examples of both are displayed in Appendix A. The first form is filled out in several different stages by the Student Assistants, while the second is returned to the program offices by the user.

Both of these forms have evolved over time to the point that CLIC personnel find the present formats quite easy to deal with and well-adapted to the program's purposes. The user evaluation form in particular has changed. At first, the question (number 6) asking for reasons for using CLIC was open-ended, that is, no alternative responses were given -- just a blank to be filled in. Responses then had to be categorized by grouping similar answers together, once a number of responses had been received. After a year, however, the answers which were most frequently given were re-stated and noted as choices under the question. New programs elsewhere may wish to avoid this two-step process and simply rely on the typical responses which CLIC users gave as appropriate multiple-choice categories. Another question on this form which has been modified is the one asking users to estimate the time they would have required to do the same project (number 5). Originally, the question was not specific as to whether travel time was explicitly included, suggesting that generally respondents had assumed that travel time was to be included in their estimates.

Only once the evaluation form has been returned to the project are the data from either form coded, keypunched, and entered into the data file. This means that, at any given time, all outstanding requests for service and completed memos which have not yet been commented upon by the users are not in the file. CLIC's quarterly reporting cycles have demonstrated that, after three months, all or virtually all cases will be completed and in the file.

6.1.2 Output

Since CLIC's data file is maintained on a "real-time" basis, with additions to the file made from the remote terminal and stored on tape at the central computer facility, the project could have updated statistics and reports on its activities practically every hour on the hour. In practice, all the accumulated data are coded into the file from the remote terminal and monitoring reports prepared every month and every quarter.

These monthly reports consist of the distributions and tables listed in Table 3, which also indicates which tables are prepared for which recipients of the report. As the table shows, the data reported are quite extensive.

6.2 "Market Penetration"

For a program designed to improve the quality of justice in rural areas, simply reaching rural judges and lawyers with the project's message is a significant accomplishment. Unlike a program directed at police activity, or at making changes in

Table 3
Quarterly Output of CLIC Monitoring System

(Note: Copies of every table are provided for the project director. Tables with the notation "S" are routinely copied for the student assistants, and tables noted "R" are those used in periodic reports of the project.)

Crosstabulation tables	**Distribution**
1. Type of request (information or service) by month	R,S
2. Simple position category of requestor (judge, prosecutor, defender, or other) by month	R
3. Detailed position of requestor (e.g., Nebraska weekly paper, associate county judge, etc.) by type of request	R
4. Simple position categories by type of information requested (e.g., copies of memos)	R
5. Reasons for denying service by simple position categories	R
6. Type of service provided by simple position categories	R
7. User rating of work on this project by simple position categories	R
8. Overall rating of CLIC by simple position categories	R
9. Type of court involved by simple position categories	R
10. Type of charge (felony, misdemeanor, ordinance, or traffic) by simple position categories	R
11. Days early or late in delivery (for service requests only) by simple position categories	
12. Time required to complete project by simple position categories	R
13. Reported user problems with service (any problem in contacting CLIC, lateness of product, improper point of view taken) by simple position categories	R
14. Reasons for using CLIC by simple position categories	R
15. User rating of work on project by student number (each student is assigned a reference number)	S
16. User-reported lateness of product by student number	S
17. User-reported properness of viewpoint by student number	S
18. Time required to complete project by student number	S
19. Days early or late in delivery by student number	S
20. User rating of work on project by type of charge	
21. Days used to complete project by type of charge	
22. Time required to complete project by type of charge	
23. Position of requestor by user rating of work on project	
24. Simple position categories by county	R
Summary Statistics	
25. Overall rating of CLIC	R
26. Days originally allotted for project	R
27. Days used to complete project	R
28. Delay in delivery of product	R
29. Time required to complete project	R
30. User's estimate of time project would require if done by user	R
31. User rating of work on project	R
32. Each student's data for the last five items (27-31)	S

a complex but centrally managed urban court system, a CLIC-type effort cannot rely on a command structure to mandate the necessary procedural changes. It depends on out-state lawyers and judges to ask for research and materials. Even the special projects prepared by CLIC have depended heavily on requests and comments from the user group to guide the project effort in the most useful direction.

Thus, making contact with its users was, for CLIC, a promotional effort -- marketing a product to a specific target consumer group. The marketing effort, like a commercial effort, involved preliminary surveys of potential consumers, specialty advertising, direct-mail solicitation, and follow-up surveys of consumer satisfaction.

How well has this effort succeeded -- what degree of "market penetration" has CLIC achieved? The answer in brief is that CLIC has been a successful marketing enterprise. Consider the following:

- In the first year of the program, a telephone sample survey of potential CLIC users showed that 98 percent of them knew about CLIC, knew what it could do for them, and had the telephone number readily available.
- Geographical distributions of the requests show that 73 of the 91 eligible counties in the state are on CLIC's roll of users. A total of 60 eligible county attorneys' offices have called on CLIC; 43 of 91 counties' judges have placed requests; and defenders in 48 counties are represented among CLIC's users.
- The percentage of CLIC users who are repeat users has risen steadily, indicating that the level of satisfaction with CLIC's work is high.

The chief vehicle in CLIC's publicity drive is the newsletter, which is mailed to 4,500 rural practitioners and judges. Originally intended to be a monthly publication, the newsletter has missed a few months now and again due to the exigencies of funding doubts, exam and holiday periods, and problems with printers. As a fortuitous result, CLIC in effect created an experiment in the efficacy of newsletter communications. The results of the experiment, graphically displayed in Figure 4, demonstrate the importance of the newsletter in maintaining good lines of communication with "out-state" lawyers.

As the graph shows, the average number of total requests is 61 in months after newsletters are issued, and 36 in other months (except the first month of the project and the last two months, for which data are incomplete). This suggests that out-state lawyers are significantly more likely to call on CLIC when they have recently received a newsletter and the project's availability is fairly fresh in their minds.

Accordingly, CLIC's Project Director emphasizes the importance of producing a monthly newsletter. Direct mailings to rural attorneys and judges have proved effective as a means of publicizing legal information services by CLIC. Regular mailings appear to be equally important. And the monthly newsletter, the natural approach to regular mailings, is therefore a highly recommended procedure for new projects.

6.3 The Demand for Services

The general dimensions of the demand for CLIC services during its first two years are outlined in Table 5. As that table indicates, an average of roughly 600 requests a year have come in from the 91 rural counties served by the center, divided about equally between requests for original research ("service") and requests for other assistance such as copies of existing memoranda, newsletters, bibliographies, textbooks, and other information.

To assess what this table means to the system of criminal justice in rural Nebraska, a comparison may be drawn to the total universe of cases brought in the state outside the counties of Douglas and Lancaster, the two urban areas not served by CLIC. In 1974, the total number of "index" offenses known to the police and reported to the FBI in these 91 counties of Nebraska was under 7,000. Without knowing the number of resulting arrests or prosecutions, the

Figure 4: Publication of Newsletter Related to User Requests

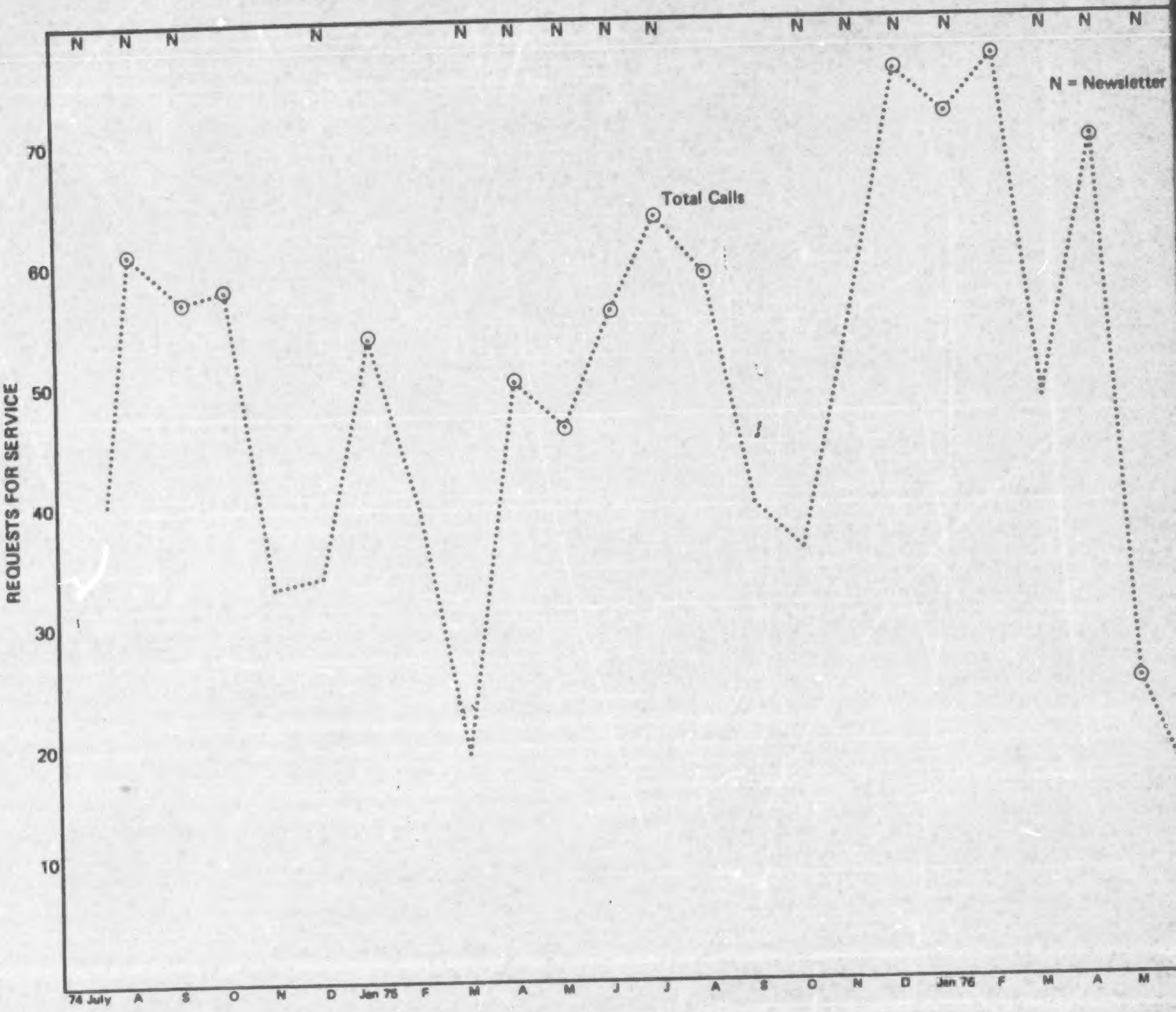

Figure 4: Publication of Newsletter Related to User Requests

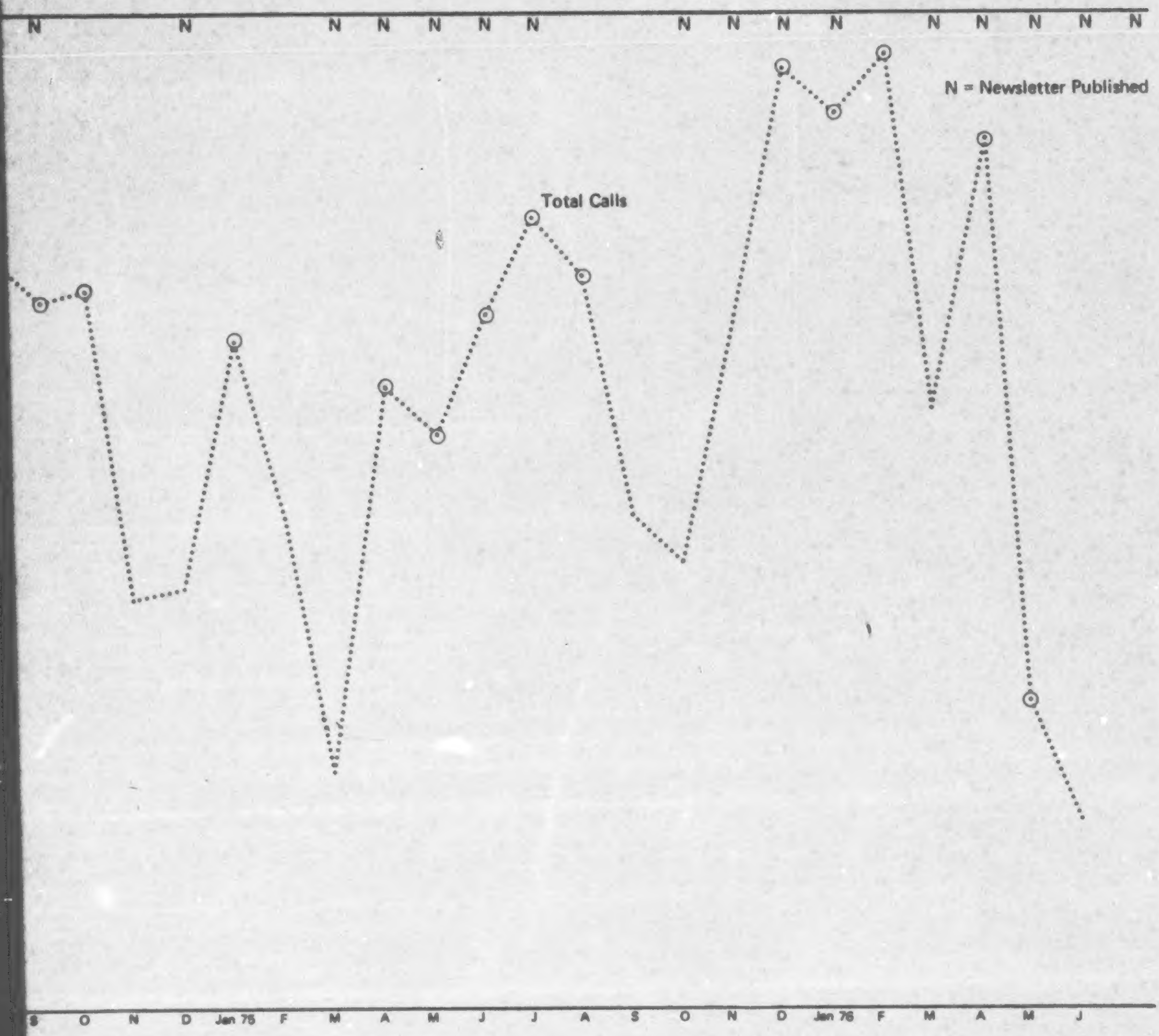

Table 5

	First Year	Second Year	Totals*
Requests:			
For information	651	515	1166
For services	229 (35%)	351 (68%)	580

number of criminal cases brought in these areas might be estimated by using the national average "clearance rate" for index offenses, which hovers around the 20 percent mark. Thus a rough estimate of the number of index cases in rural Nebraska is about 3,400. If referred to one unique index case, these requests would represent about 19 percent of the total cases brought during a comparable period.

Of course, index cases are only part of the crime picture. Legal research such as that performed by CLIC will be useful in only a certain number of criminal cases. For example, there are many cases in which legal questions are not at issue, and the only dispute is about facts. Frequently not even facts are in dispute: the real issue may be the proper disposition after trial or plea of guilty. And sometimes, even when there is a legal issue, it is one which is argued primarily from widely known cases and principles which a criminal-law practitioner of some experience will not need to research in the library. Therefore, it would be entirely reasonable to expect original research to be useful in only a portion of any criminal lawyer's cases. In fact, CLIC memoranda are disproportionately prepared for felony cases--the most serious but least frequent category of offense. Thus, if CLIC is used in as much as a fifth or sixth of the major out-state criminal cases, it is probably being used in a substantial proportion of the cases in which legal research is appropriate.

These calculations are only rough estimates, but they illuminate the importance of CLIC services to out-state courts. To many

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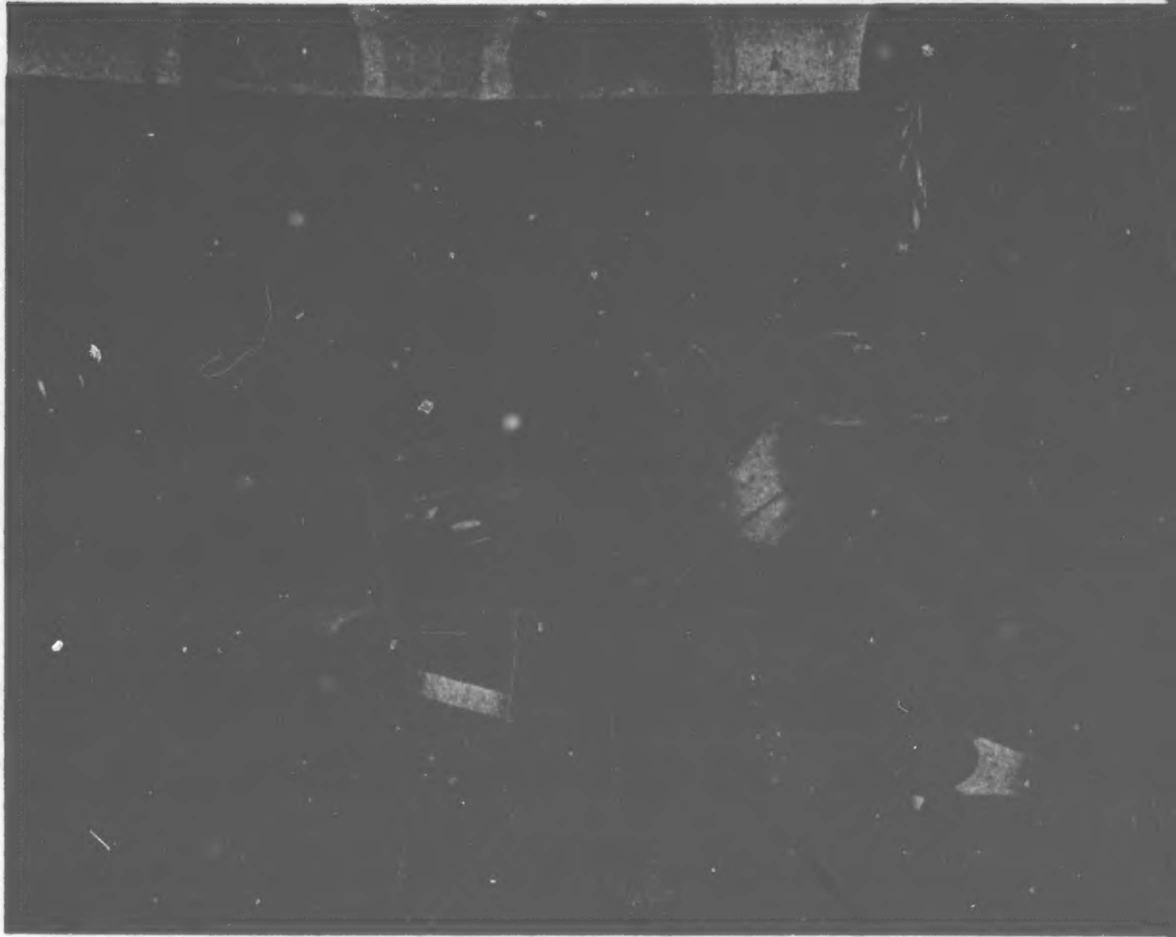
* Minor discrepancies are due to miscoded or missing values for a few cases.



states and some cities, a comparable volume of research memoranda and additional informational contacts would be a tiny contribution; in rural Nebraska these services could make adequate legal resources a reality in a large proportion of those cases in which they had previously been wanting.

As was noted earlier, the demand for CLIC services is widespread both geographically and functionally. Judges and courtroom advocates alike call on CLIC, and they place their calls from counties all over rural Nebraska. The volume and quality of CLIC research and other information services are discussed in the succeeding sections. Figure 6 on the next page displays the sources, types and results of requests to CLIC.

As Figure 6 shows, defense attorneys are the heaviest users of CLIC services, while original memos and copies of other memos are the chief services provided. Further examination of CLIC data gives some refinement to this picture. For example, the requests from defense attorneys are twice as likely to deal with felonies as are those of the prosecutors, and the defenders' memos take longer to prepare on average than anyone else's. This would seem to fit with the general opinion among trial lawyers that the criminal defender's legal position is generally more difficult than the prosecutor's. After all, the prosecutor with a very weak legal argument may simply not bring the case in the first place.

The follow-up evaluation questionnaire sent to all research users asked why they had used the service. In the first year, this was an "open-ended" question (no suggested responses were presented for the subject's choice); in the second year, the first year's most common reasons were offered as possible reasons to be checked off. As expected, this encouraged greater uniformity of responses in the second year. Table 7 shows the results.

6.4 Research Services

The subjects of CLIC memos vary widely over the range of criminal law questions, but many of them deal with the frequently litigated areas of search and seizure, right to counsel, admissiblity of confessions, and propriety of police procedures--the "constitutional

Figure 6
CLIC Services Requested and Provided
July 1974-June 1976

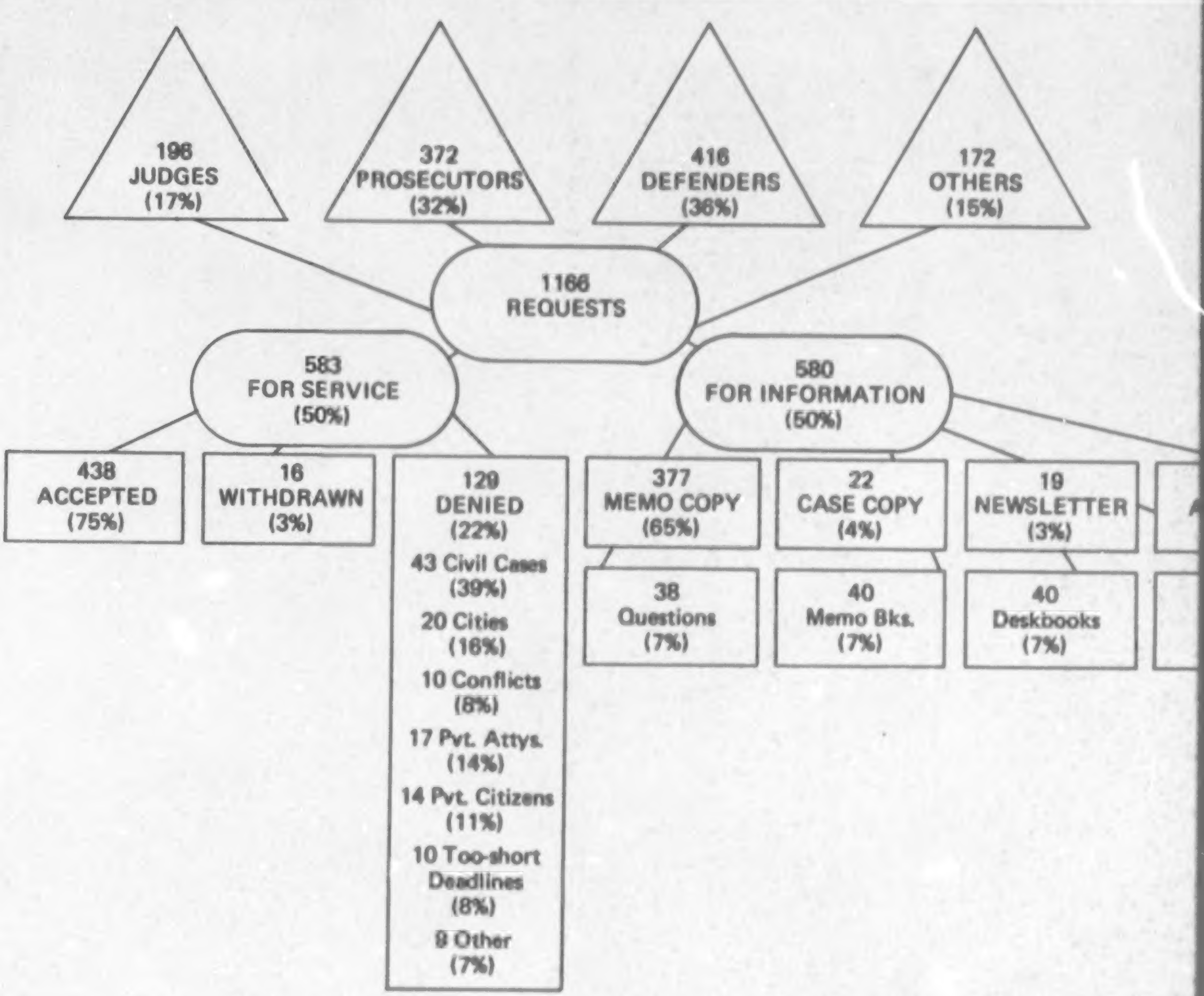


Figure 6
CLIC Services Requested and Provided
July 1974-June 1976

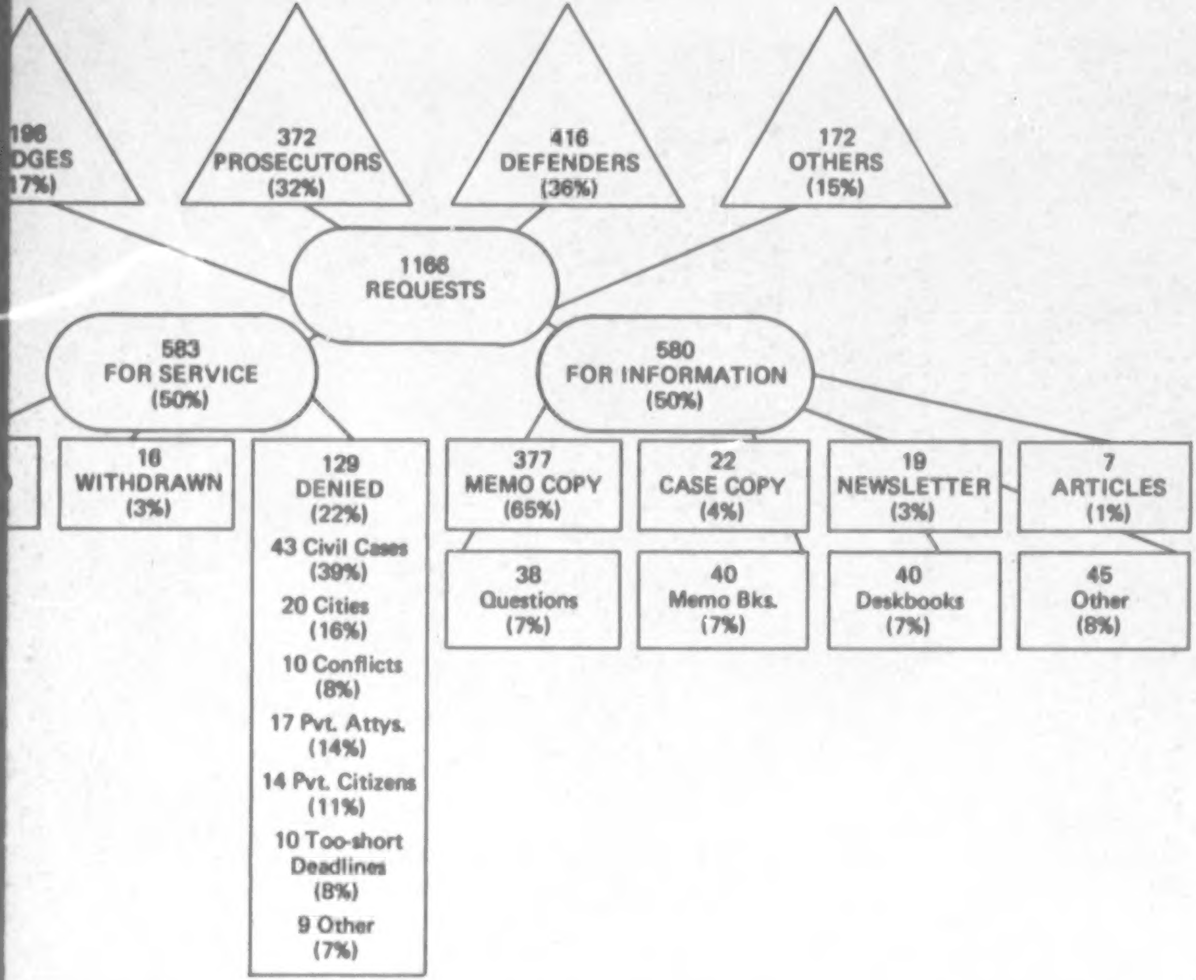


Table 7

Research Users' Reasons for Calling CLIC
July 1974-June 1976
n = 435

Reason	Respondents Giving that Reason
CLIC saves travel time	89 (20.5%)
CLIC saves research time	256 (59.0%)
CLIC has a good reputation	65 (15.0%)
CLIC does more thorough research than user could	95 (21.9%)
CLIC has better reference material	245 (56.5%)
CLIC offers another opinion	78 (18.0%)
Other reasons	15 (3.5%)

NOTE: Minor anomalies in table result from (a) multiple response (which were requested) and (b) missing values in coding.

criminal procedure" issues. A slightly smaller number of questions deal with the interpretation of Nebraska statutes, both substantive and procedural or authorizing. Since the constitutional law issues are so often argued, there are fairly rich secondary source materials for the students to use, including the file of past CLIC memos, and frequent opportunities to learn from each other about related cases and arguments. Similarly, the more-disputed Nebraska statutes are repeated subjects of inquiry, and thus the opportunities for gaining, using, and passing on understanding are great in this area as well.

Thus, the CLIC research team and its advisors can gain substantial expertise in criminal law. The CLIC Project Director believes that the accumulation and exchange of expertise in specific topics and subtopics, along with the two-step review and revision process involving both senior student assistants and supervising attorneys, have both contributed greatly to the production of a consistently high-quality research product.

How good are the CLIC memos? According to the people for whom they are prepared, they are very good. The follow-up evaluation form sent out to all users of CLIC research services shortly after receipt has consistently elicited a high degree of satisfaction with the work product.

Preparing a CLIC memo requires, on average, 14.7 hours of student time, including the time of the Student Assistant in editing and reviewing the report. In addition, of course, attorney review time and secretarial time are required, as are intangible proportions of indirect and overhead expenses. An estimate of the inclusive cost per memo, based on staff estimates of the proper allocation of expenses among the various project activities, is about $200.

In the post-service evaluations, users have been asked to estimate the amount of time they would have needed to prepare the memo they received. In the first year of the project, this question was unclear as to whether travel time was to be included; in the second, it was explicitly included. In both years the users estimated, on average, about ten hours per memo. This may be an unreliable statistic, since such estimates are likely to be influenced by the optimism which often accompanies the prediction of one's own efficiency. Users were also asked to state what the memo would be "worth" to them; the answers suggest that most respondents applied an hourly rate of about $20 to their time estimates. Thus the average user priced the average memo at about $200. It is unlikely, however, that users included in their calculations support staff and overhead costs. By providing the memos centrally, with copies available at the cost of duplication and postage, the actual cost per memo sent to each user is closer to $50.

6.5 Information Services

In addition to original research, CLIC has been spending a greater and greater proportion of its effort on "information services" --answering brief over-the-phone questions, sending out copies of memos or newsletters, providing books on short-term loan, preparing and distributing special project items such as the bibliographies or the sentencing manual. Approximately 65 percent of the information requests are for copies of past memoranda, usually requests triggered by reading of the memoranda in the CLIC newsletter.

The newsletter itself, and the "special projects" -- the Judge's Deskbook, bibliography of memoranda, and the library bibliography --are also information services provided to users. To complete the picture of the volume of such services provided, it should be noted that, in its first two years, CLIC.

- distributed 17 issues of the newsletter to a mailing list which has reached a size of 4,500;
- distributed a copy of the Judge's Deskbook to every county attorney and all judges, and to others; and
- distributed about 400 memo bibliographies and 50 library bibliographies to interested users.

The overall scope of CLIC's information services effort is substantially larger in terms of both subject matter and number of persons reached than the research component of the program. In terms of effort, however, the research memoranda clearly dominate CLIC's operations. Even the newsletter -- which requires a substantial amount of time and other resources -- is based to a significant degree on the "Student Assistant's Report" of research memoranda available.

Response to the newsletter has been generally good. Many recipients have written complimentary letters to the program, while others have written to take issue with statements in the newsletter, showing that they were interested enough to read the newsletter closely and considered it important enough to write.

6.6 CLIC as an Educational Program

In addition to its value to rural criminal justice practitioners who use the service, CLIC contributes valuable benefits to students who assist in providing the service. For CLIC's student researchers and its project director and supervising attorney, both past or present law teachers, the value of the program as a means of legal education is important. The Project Director hastens to note that, should there ever be a conflict between the program's dedication to providing quality service to its users and its educational aspects, the importance of service would prevail. However, he also feels that no such conflict has arisen, nor is it likely to arise. Providing the very best legal services to CLIC users almost automatically involves training the students who do the work to do quality legal research.

CLIC, of course, operates in the setting of a law school, and it does fill a real role in the school's educational program. The program provides part-time and summer employment, and income, for students in a time of increasing costs and limited student aid funds. CLIC gives students a chance to work on real cases instead of hypothetical disputes between hypothetical disputants. It provides students with the occasion to master legal research technique, a skill otherwise largely untaught in law schools. It gives students experience in the realm of criminal law, an area often given fairly little attention in law school. The program helps the law school, too, in its efforts to be more of a resource for the practicing bar and the community it serves -- an effort which encompasses at Creighton continuing legal education courses, library availability, and similar "outreach" efforts.

Appendices

Appendix A: CLIC Program Forms

Appendix B: CLIC Procedures Manual

Appendix C: Sample Memoranda

APPENDIX A

CLIC PROGRAM FORMS

1. Printed File Folder
2. Contact Summary Status Book Page
3. Caller Card
4. Case Card
5. Contact Summary Form
6. Request Summary Form
7. Time Card
8. Project Evaluation Form

PRINTED FILE FOLDER

Creighton Legal Information Center
2500 California Street, Omaha, Nebraska 68178

Student Assigned ______________
Date Assigned ______________
Date Due for Typing ______________
Rescheduled ______________

Mailing Date ______________
Rescheduled ______________
Date Mailed ______________

Evaluation Received ______
Release Date ______
Newsletter: Vol. ______ N
Supplemental Memo (Seq. N

RESEARCH ASSISTANT (RA)

	date	initials
1. Draft submitted		
6. Typed copy rec'd		
7. Memo to SA		
13. Corrections rec'd		
14. Corrected memo to SA		
21. Final copy rec'd to proofread		
22. Final copy to SA		
30. Brief topic cards made		
31. Record filed		

☐ Logged In
☐ Case Card
☐ Caller Card
☐ Calendar

STUDENT ASSISTANT (SA)

	date	initials
2. Draft received		
3. Draft to sec.		
8. Memo to Atty		
11. Rec'd from Atty		
12. Memo to RA		
15. Corrected memo to Atty *(skip to No. 18 if w/corrections)*		
18. Memo to sec.		
23. Final rec'd		
24. Final to copy ctr		
25. Copies rec'd		
26. Final to sec. to mail		
28. Student's copy whited out		
29. Given to RA to index		

SECRETARY (Sec.)

	date	initials
4. Draft received		
5. Typed copy to RA		
19. Memo received		
20. Final copy to RA		
27. Final copy mailed		

COPIES SENT

Seq. No.

SUPERVISING ATTO

9. Memo received
10. Memo to SA *(if app'd w/corrections, initial No. 17)*
16. Corrected memo received
17. Memo returned with approval

CALLS MADE TO

Date	Reason

PRINTED FILE FOLDER

Creighton Legal Information Center
2500 California Street, Omaha, Nebraska 68178
800/642-8446
(TOLL FREE)
402/536-2929

gned ____________________
d ____________________
Typing ____________________
duled ____________________

Mailing Date ____________
Rescheduled ____________
Date Mailed ____________

Evaluation Received ____________
Release Date ____________
Newsletter: Vol. ______ No. ______
Supplemental Memo (Seq. No.) ______

EARCH ASSISTANT (RA)

	date	initials
submitted		
copy rec'd		
to SA		
ctions rec'd		
cted memo to		
copy rec'd to read		
copy to SA		
topic cards		
d filed		

d In
Card
Card
der

STUDENT ASSISTANT (SA)

	date	initials
2. Draft received		
3. Draft to sec.		
8. Memo to Atty		
11. Rec'd from Atty		
12. Memo to RA		
15. Corrected memo to Atty *(skip to No. 18 if w/corrections)*		
18. Memo to sec.		
23. Final rec'd		
24. Final to copy ctr		
25. Copies rec'd		
26. Final to sec. to mail		
28. Student's copy whited out		
29. Given to RA to index		

SECRETARY (Sec.)

	date	initials
4. Draft received		
5. Typed copy to RA		
19. Memo received		
20. Final copy to RA		
27. Final copy mailed		

SUPERVISING ATTORNEY (Atty)

	date	initials
9. Memo received		
10. Memo to SA *(if app'd w/corrections, initial No. 17)*		
16. Corrected memo received		
17. Memo returned with approval		

COPIES SENT

Seq. No.

CALLS MADE TO USER

Date	Reason	Initials

CONTACT SUMMARY STATUS BOOK PAGE

Date 19___	Seq. No.	Caller	Position	County	Request	Assigned to:	Due Date

CONTACT SUMMARY STATUS BOOK PAGE

	Caller	Position	County	Request	Assigned to:	Due Date	Date Compl.

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CALLER CARD

CALLER: ____________________ POSITION ____________ PHONE NO. ____________

ADDRESS: ____________________ COUNTY ____________

____________________ CODE NO. ____________

Seq. #	Case Name	Doc./Page	Date In	Date

Form 2

CALLER CARD

________________ POSITION ____________ PHONE NO. ______________

________________ COUNTY ______________

________________ CODE NO. ______________

Case Name	Doc./Page	Date In	Date Comp.

CASE CARD

CASE ____________________ **County** ____________________

Seq. No.	**Caller**	**Position**	**Assistance Sought / Case Name**

CASE CARD

County

o.	Caller	Position	Assistance Sought / Case Name

C.L.I.C.
CONTACT SUMMARY FORM

(1-4) User: ______________________ ; _ _ _ _ (Code) Seq. No. _ _ _ _ (5-8)

Address: ______________________ Date ____, ___ ; _ _ _ (Code) (9-11)

______________________ (New Address? ☐) Request taken by ______________________

Phone No.: 1- _ _ _ - _ _ _ - _ _ _ _ (New Phone? ☐) Request: Letter ☐ (12)
Call ☐ (13)

(14,15) Position: ______________________ ; _ _ (Code)

(16,17) County: ______________________ ; _ _ (Code)

Case/Project Name ______________________

(18) ☐ REQUEST FOR INFORMATION

(19) ☐ Copies of Memoranda Nos. ______________________

(20) ☐ Copies of Cases Cities ______________________

(21) ☐ Copies of Newsletters Vol. __________ No. __________

(22) ☐ Copies of Articles Cities ______________________

(23) ☐ General Questions (*See Attached*)

(24) ☐ Request for Bibliography of Memoranda

(25) ☐ Request for Deskbook

(26) ☐ Other ______________________

(27) ☐ Other ______________________

(28) ☐ Other ______________________

(29) ☐ REQUEST FOR SERVICES

	Request:		Court:	Charges:
(30)	-0 Not Denied →	(31) ☐ Accepted	(35) ☐ District	(38) ☐ Felony
	Denied (*Circle Reason*)	(32) ☐ Revision	(36) ☐ County	(39) ☐ Misdemeanor
	-1 Civil Case	(33) ☐ Supplement (_ _ _ _)	(37) ☐ Juvenile	(40) ☐ Ordinance
	-2 Urban Counties	(34) ☐ Special Report (_ _ _ _)		(41) ☐ Traffic
	-3 Confl. of Interest			
	-4 Private Attorney			
	-5 Private Citizen			
	-6 Unreas. Deadline			
	-7 Other			

Student Assigned: ______________________ ; _ _ _ (Code) (42-44)

Final Due Date: ______________ . ________ ; _ _ _ (Code) (45-47)

Date Mailed/Answered: ______________ . ________ ; _ _ _ (Code) (999=Request Withdrawn) (48-50)

Units of Time: ______________________ ; _ _ _ (Code) (51-53)

Final Evaluation Score: ______________________ (54)

REQUEST SUMMARY

Request Taken by ________________ Contact Summary Form No. ____

TIME CARD

Name: ____________________

Seq.#	Case Name or Project	Units*

Form 4 *(1 Unit = 1 hour, .1 Unit = 6 minutes)

User No. ________(1-4)
Position No. ______ (5)
Project No. ______(6-9)

PROJECT EVALUATION

1. How would you rate the quality of the work performed on this project? (Circle one) (10)

-1 Excellent
-2 Good
-3 Fair
-4 Poor
-5 Very Poor

2. Did you have any problem in contacting CLIC and initiating this project? (11)

-1 Yes (please explain on back)
-2 No

3. Was the project delivered when promised? (12)

-1 Yes
-2 No

4. Was the project directed appropriately to the point of view you requested (prosecution's point of view, defense's, judge's, etc.)? (13)

-1 Yes
-2 No

5. How many hours (total) would it have taken for you and your staff to complete this same project youself? (Include travel time, research time, etc.) (14-17)

____________(Total Hours)

6. Please indicate the reasons(s) you have for requesting projects like this from CLIC (Circle all that apply).

-1 Saves me travel time in getting to research sources. (18)
-1 Saves me research time (other than travel). (19)
-1 CLIC has a good reputation. (20)
-1 CLIC does more thorough research than I could have. (21)

-1 CLIC has reference materials I do not have access to. (22)
-1 Wanted another opinion on issues. (23)
-1 Other (please specify) ________________ (24)

7. Overall, how would you rate your feelings about the CLIC program? (Circle one) (25)

-1 I have been completely satisfied with CLIC.
-2 I have been generally pleased with CLIC.
-3 The CLIC project is good, but should be improved a bit.
-4 I have been generally dissatisfied with CLIC.
-5 I have been completely dissatisfied with CLIC.

8. How, if at all, did this CLIC report affect the resolution of the legal problem to which it was addressed? How might it affect the resolution of other legal problems handled by your office? (26-27)

9. Please record any comments you may have, good or bad, about CLIC or any of the services that have been provided to you.

THANKS FOR YOUR COOPERATION. WE APPRECIATE YOUR COMMENTS.

APPENDIX B

CLIC Procedures Manual

CREIGHTON LEGAL INFORMATION CENTER PROCEDURES MANUAL

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FILLING OUT FORMS

Each contact with the Center (either by telephone call or letter) is recorded:

1. In numerical order in the Contact Summary Status Book (a quick reference source);
2. On a Caller Card (a 5 x 8 index of all CLIC users);
3. On a Case Card (if applicable) (a 5 x 8 index of all CLIC cases);
4. And on a Contact Summary Form (a comprehensive precoded form for recording information about each contact).

Because data processing is used in compiling statistics for the project, many codes are used. The code lists for county members, user positions, students, dates and denial reasons are kept under the glass on the Student Assistants' desk.

Contact Summary Status Book

The Contact Summary Status Book is the one central point of information regarding all contacts with the Center. It is from this record that sequence numbers are assigned as requests come in. The Student Assistant handling the request assigns the next sequence number to the request and logs in all the pertinent information -- the date, the user's name, position (judge, attorney, prosecutor, etc.) and county, the nature of the request (copies of memos, original research), the student to whom the project is assigned, and the date the project is to be mailed. The date the project is completed is recorded at the project's conclusion. This book is kept on the Student Assistants' desk.

Caller Cards

Two files of 5 x 8 cards are kept on the Student Assistants' desk. One file indexes all CLIC users alphabetically by last name. A record is made by the Student Assistant handling the request for each contact the user makes with the Center. The first time a user contacts the Center a new card is filled out. The user's name is entered on the form -- last name first. His correct mailing address (including zip code), position and position code number, telephone number (including area code), county and county code number, are logged in. The card is then given to the Secretary who looks on her master list to see if the user already has been assigned a unique user number which is used as a part of the mailing list maintenance program. If the user has a number already assigned because he returned an initial questionnaire, the Secretary writes it in on a Caller Card. If the user has not yet been assigned a number, the Secretary assigns one, notes all the pertinent information from the Card in order to add the person to the mailing list, and writes the newly assigned user number on the Caller Card. The Caller Card is then returned to the Student Assistants' file.

The bottom portion of the Caller Card contains space for information regarding the user's contacts with the Center. For each contact, completion date is noted when the project is mailed or a telephone response is given.

Case Cards

To avoid CONFLICTS OF INTEREST (see p.116) and to assess information by case name, a 5 x 8 Case Card is prepared for each request involving a particular case. These cards are indexed alphabetically by the defendant's name in the second file on the Student Assistants' desk. The case name and county are entered on the card. For each request involving that particular case, the sequence number, user making the request, the user's position, and the assistance sought are recorded. Normally, no more than one service request is accepted on any case. See CONFLICTS OF INTEREST, p.116. Thus, the status of a project can be assessed either by sequence number, case name or caller name.

Contact Summary Form

A two-part NCR paper Contact Summary Form is filled out by the Student Assistant handling the request for each contact with the Center. The top one-third of the form contains general information regarding the request. Following the user's name should be the user's unique code number, taken from the Caller Card. The user's address and telephone number should be confirmed and if either is incorrect, the corrected information is recorded on his Caller Card, and the appropriate "change of information" box on the Contact Summary Form marked with an "x." Computer code numbers must be entered for the user's position, the county, and the date. If the request does not involve a particular case or project, the entry on the Contact Summary Form should be "n/a." Depending on whether the request came in by call or letter, the appropriate box should be marked with an "x."

Either the middle section box "Request for Information" or the bottom section box "Request for Services," depending on the nature of the request, should be marked with an "x." In no instance will both sections be marked on the same form. If the user makes more than one request, i.e., a copy of a previous memorandum and a request for an original memorandum, two separate Contact Summary Forms with different sequence numbers must be prepared. However, if the user requests two different types of information, i.e., copies of cases and copies of newsletters, only one Contact Summary Form need be filled out. Where "other" is needed for recording a request, use only the first "other" line. The second and third lines are to be ignored for the present. All of the appropriate boxes should be marked with an "x" and the pertinent information noted in the spaces provided. Only one box under each of "Request," "Court" and "Charges" should be marked if the request is for services. Computer code numbers must be entered for the student researcher assigned, appropriate dates, and units of time. The date mailed, units of time, and final evaluation score will be recorded by the Secretary when this information becomes available.

Request Summary Sheet

The Request Summary Sheet is used for recording a user's general questions, and for recording pertinent facts and issues to be researched when a Request for Service is received by telephone. The contact sequence number and initials of the Student Assistant filling out the form are noted at the top of the page.

File Folder

Two types of file folders are utilized by the CLIC staff. The printed file folder is used for all requests for services requiring the preparation of an original research memorandum. A plain legal size file folder is used in all other instances.

The printed file folder lists information regarding the student assigned to do the research, the data assigned, the date due for typing and the mailing date. This information, along with the sequence number, is filled in by the Student Assistant at the time the assignment is made. The folder is then used as a routing slip while the memorandum is being prepared. Each person involved in the memo's preparation, the Research Assistant, the Student Assistant, the Secretary and the Supervising Attorney, notes his initials and the date as he completes a step in the process. Space is also provided to note calls made to the user. After the memorandum is completed and mailed, the printed folder is filed.

The date that the evaluation and release are returned is noted on the printed folder along with the date the memo may be released. Those forms are then filed in the printed folder. Also noted on the printed file folder are the volume and number of the Newsletter in which the memorandum is abstracted, the sequence number of any supplemental memo that is prepared, and the sequence numbers of requests for copies of that memo.

A copy of each original research memorandum is filed in a plain file folder with the sequence number noted on the tab in the student office file.

All other Contact Summary Forms and pertinent information associated with them are filed in plain folders. These folders are filed numerically along with the printed folders in the official file.

HANDLING REQUESTS

In General

All requests will normally be handled by a Student Assistant. Mail requests will be placed in the in-basket on the Student Assistants' desk. If in the office, a Student Assistant will answer the incoming WATS line and the local line. When no Student Assistant is in the office, the Secretary will handle all calls. He/she will take the caller's name, address, telephone number, position, and county, and inquire as to the nature of the request. If the request is for copies of memoranda, copies of newsletters, or copies of special projects (e.g., the Deskbook or Bibliography), either the Secretary or the Student Assistant will handle the request, filling out all the appropriate forms. Requests for all other information and services must be handled by a Student Assistant and the Secretary should arrange to have a Student Assistant return the call. By noting the posted schedule of office hours, the Secretary can inform the caller when the Student Assistant will be available.

Requests for Information

When a user requests copies of materials, the request is classified as a "Request for Information." It is given a sequence number and logged in the Contact Summary Status Book. A new Caller Card must be prepared or notations made on the present card and a Contact Summary Form must be filled out. The Contact Summary Form and, where the request is by mail, the letter, must be filed in a plain file folder with the sequence number noted on the tab.

Copies of Memoranda

If the request is for copies of previously written and "releasable" memoranda, the official file folders for the appropriate memos are pulled by the Student Assistant handling the request. The front page (with the original user's name and the case name erased) and all subsequent pages should be xeroxed. As with all xeroxing, a record is kept of the number of pages copied. The sequence number of the request for the copy is noted in the appropriate space on the front of the printed file folder containing the requested memo. The appropriate cover letter (note the special cover letter for copies of memoranda sent to Lancaster and Douglas county users) is prepared by the Secretary and the letter and copies of memoranda are mailed.

After the copies have been mailed, the completion date is noted in the Contact Summary Status Book and on the Caller Card by the Student Assistant handling the request. The Contact Summary Form should be filed in a plain file folder with the sequence number written on the tab. The folder should then be placed in the Secretary's box. Before filing the folders away, the Secretary completes the preparation of the Contact Summary Form for data processing. The Contact Summary Form (printed in duplicate sets on NCR paper) is separated, the original remaining in the plain folder so the computer "knows" there will be no evaluation coming in on that particular request. The "dummy card" contains the user (code) number, the position number, and the project (sequence) number, and is stapled to the upper left hand corner of the duplicate Contact Summary Form. After this has been done, the duplicate Contact Summary Form is placed in a file in the Secretary's desk. The Secretary collects and sends all duplicate Contact Summary Forms to the computer at times convenient to the persons responsible for data processing support.

Copies of Articles or Cases

If the request is for copies of cases or articles, the Student Assistant will arrange to have the appropriate materials xeroxed. The xerox copies, the Contact Summary Form and Caller Card should then be placed in a plain file folder with the sequence number written on the tab. The folder is given to the Secretary to prepare the proper cover letter and mail the materials. She will note the completion date on the Caller Card, separate the Contact Summary Form, leaving the original in the folder, and prepare the copy for data processing as stated under "Copies of Memoranda." The Caller Card will be returned to the in-basket on the Student Assistant's desk. The Student Assistant will then enter the completion date in the Contact Summary Status Book and re-file the card.

Copies of Newsletters

If the request is for copies of Newsletters, the Student Assistant handling the request will fill out the appropriate forms, place the forms and Newsletters requested in a plain file folder and have the appropriate cover letter typed. After the copies have been mailed, the completion dates should be entered on the Caller Card and in the Contact Summary Status Book, and the folder given to the Secretary who will separate the Contact Summary Form, leaving the original in the folder, and prepare the copy for data processing as stated under "Copies of Memoranda."

Books

Library books can be sent on loan for 30 days to users. The procedure is as follows: Books are checked out to CLIC with the name of the user on the card; an appropriate cover letter is typed and included with the books, the Secretary will fill out a postage form and the books are sent to the mail room to be wrapped and mailed.

Other

Other requests for information, including requests for copies of the Deskbook, Bibliography, demonstration packets and booklets on CLIC, are recorded as "other" and a separate Contact Summary Form is prepared for each type of information requested.

Deskbooks

When a request comes in for the Judges Deskbook, authored by CLIC students, the Secretary mails out the Deskbook with the appropriate cover letter. She also fills out the Contact Summary Form, placing a number 3 (representing Deskbook) in the box beside "Other." A Caller Card must also be filled out. The other forms are then completed as noted under "Copies of Memoranda."

Bibliography

When a request comes in for the CLIC Bibliography of Releasable Memos, prepared by the CLIC staff, the Secretary mails out the Bibliography with the appropriate cover letter. She also fills out the Contact Summary Form, placing a number 2 (representing Bibliography) in the box beside "Other." A Caller Card must also be filled out. The other forms are then completed as noted under"Copies of Memoranda."

All other requests for information, excluding Deskbooks and Bibliographies, are marked with a number 1 in the box beside "Other." The procedure for filling out the Contact Summary Form and Caller Cards is the same.

Future special project reports available by request will be assigned subsequent numbers between 4 and 9.

REQUESTS FOR SERVICES

Original Research

When a user requests an original research memorandum, a revision or a supplement to a previous memorandum, or a special project or report, the request is classified as a "Request for Services." If the request comes in by mail, the letter will be filed in the printed file folder.

Each request must be logged in the Contact Summary Status Book. A Caller Card, Case Card and Contact Summary Form must be prepared. If the request came in by telephone, a "Request Summary Sheet" must be completed. All pertinent facts and a succinct statement of the issue or issues must be noted. If the caller is an appointed defense counsel, arrangements must be made to have him mail a copy of his court appointment to the Center to insure that we serve only publicly funded counsel.

A request should be politely denied if there is a Conflict of Interest which becomes apparent when the Student Assistant checks the Case Card index file (see page 102); if the caller is a private (rather than a court appointed) defense counsel; if the request concerns a civil matter; if the caller is from Lancaster or Douglas County and not appointed to defend in another county;

or if the caller makes an unreasonable request with regard to due date. When a request is denied, the Contact Summary Form is marked under "Denial" by circling the appropriate reason for denial and the Contact Summary Form and letter from the requester, if appropriate, are placed in a plain file folder. The file is given to the Secretary who processes the file as noted under "Copies of Memoranda." In order to alert data processing to the fact that the memorandum has been denied and there will be no evaluation, on the "dummy card" the user number 9999 is filled in and position number 9 is filled in. The properly assigned sequence number is still filled in as usual.

The Student Assistant must establish a date on which the completed memo will be mailed to the person making the request. Written responses are preferable, but telephone replies are possible in unusual circumstances. The time period which is agreed to between the user and Student Assistant should allow the Research Assistant approximately seven days per issue to write the memo and seven to ten days for the memo to be typed, reviewed and otherwise processed. Both the typing date (date by which the Research Assistant must have completed the memo) and mailing or telephone date must be entered on the Student Assistants' calendar by sequence number and student assigned. In order to smooth the secretarial work flow, no more than three typing or mailing assignments should be made for the same day. The assignment must also be noted on the current assignments bulletin board indicating the date the memo is assigned, the sequence number and the typing date. The workload of students available to prepare memos must be determined from this bulletin board.

The Case and Caller Cards should be completed with the Contact Summary Form and the Request Summary Sheet or letter placed in the printed file folder. The Student Assistant should enter the sequence number on the folder tab and note the following information: the student assigned, the date assigned, the date due for typing, the mailing date, and that the request was logged in the Contact Summary Status Book, the Case Card and Caller Card were completed, and the typing and mailing dates were noted on the calendar. Then the folder is placed in the mailbox of the Research Assistant who is assigned to prepare the memo.

As the memorandum is processed, each person involved notes the date and his initials on the printed file folder as he completes a step in the process. The folder "follows" the memo through each step in the process. Any calls made to or received from the user regarding that memo should be noted on the file folder.

The Research Assistant does all the necessary research and prepares a memorandum directed to the issues involved. He should keep in mind the position of the user (*e.g.*, prosecutor or defense counsel) and attempt to respond in a manner that will be helpful to that user. The memorandum should be headed in the usual manner and the heading followed by a brief question and answer explaining the memo (*see* Appendix C). This question and answer will be printed in the Newsletter once the memo is releasable, so it is *particularly important* that they accurately describe the substance of the memo and be legally and grammatically correct. No identifying names or remarks should appear in the body of the memo since copies will later be sent to other persons. The final handwritten copy should be legibly written on yellow legal paper, skipping every other line, and using only one side of the page. All case names and cites should be printed and the memo should be in perfect legal citation ("white book") form. The memo is returned in the printed file folder to the in-box on the Student Assistants' desk. The Research Assistant then crosses out that assignment on the bulletin board so the Student Assistant can determine the Researcher's workload.

The folder is given to the Secretary who types a rough draft recording the memo on Mag II cards. The student's handwritten copy and the typed copy are returned to the Research Assistant to be carefully proofread. He should compare especially the case citations. The Research Assistant keeps the handwritten copy and passes the folder on to the Student Assistant who also reads the memo, making corrections or suggestions, reviewing especially the abstracted question and answer for the Newsletter. The memo is then given to the Supervising Attorney who reviews the memo also making corrections and suggestions. He should note the "white book" style and review the abstracted question and answer. The Supervising Attorney returns the memo to the Research Assistant if there are corrections to be made, or directly to the Student Assistant if it is approved for mailing. The Research Assistant makes necessary corrections until the memo is finally approved. The Student Assistant then gives the corrected memo to the Secretary to prepare a final copy. The final copy is returned to the Research Assistant to be proofread before mailing and then is given to the Student Assistant. The Student Assistant has copies of the memo made -- three of the first page and two of each succeeding page. The name of the user and the case name are erased on two copies of the front page to preserve confidentiality when the memo is later released. One complete copy of the memo and a partially erased front page are placed in the printed file folder. The second copy (with a partially erased front page) is put in a plain file folder with the index tab marked with the sequence number for the students' office file.

The student office folder is then placed in the box of the Research Assistant who prepared the memo. The student must then prepare 3 x 5 index cards for each subject and Nebraska statute dealt with in the memo. These 3 x 5 cards are filed for research reference for future memos and used to create a subject matter classified bibliography.

Supplemental Memoranda or Revisions of Memoranda

If a "Request for Services" is a supplemental memo or a revision of a previous memo, the Student Assistant should place a copy of the supplement or revision in the official file and the student office file of that previous memo. Also, a copy of the previous memo, which has been supplemented or revised, should be put in both the official file and the student office file for the supplement or revision. Copies of revisions and supplements are sent to all users who requested and received the original memorandum, as noted on the printed file folder of the original memo. A notation is made on the Caller Cards of those users who are sent the revision or supplement. The same sequence number as the supplement or revision is used for that notation, and the notation indicates that the supplement or revision was sent and that it relates to an earlier memo. Carbon copies of all of the cover letters sent with the copies of the revision or supplement are put in the printed file folder of the original memorandum. The Case Card for the original memo, if appropriate, is updated to indicate that a revision or supplement was prepared and to reflect its sequence number.

The Student Assistant pulls the Caller Card, places it in the official folder and passes the folder on to the Secretary who mails the memo with the appropriate cover letter. She notes the date mailed on the Contact Summary Form, the Caller Card, and the file folder.

The Caller Cards are returned to the in-basket on the Student Assistants' desk. The Student Assistant notes the completion date in the Contact Summary Status Book and filed the Caller Cards.

Telephone Response

If for some reason the response is given by telephone, it first must be discussed with the Supervising Attorney and his or her approval must be noted on the printed file folder. Following the telephone response, a summary of the information is prepared in memorandum form, typed, and mailed to the user as if it were a regular memo. An evaluation and release form should be sent one week later. However, the telephone response memorandum should not be abstracted in the Newsletter nor released to other users.

When a telephone call results in a quick response, not requiring significant research, it should be classified as a "Request for Information" and should not be evaluated.

Cancellations/Withdrawals

If, for some reason, a request for an original memorandum is cancelled or withdrawn, the Student Assistant fills in 999 after "Date Mailed/Answered" on the Contact Summary Form. The Student Assistant then writes "cancelled" under date completed in the Contact Summary Status Book and on the Caller Card. The file is then given to the Secretary who separates the Contact Summary Form, leaving the original in the folder and filing it. The second copy of the Contact Summary Sheet has a "dummy card" stapled to it which notes the user number, position number, and sequence number, thus alerting data processing that there will be no evaluation.

EVALUATIONS

One week after an original memorandum has been sent, the release and evaluation form are sent out by the Secretary. No evaluations are sent for supplemental memoranda or revisions. She determines this date by checking the suspense file daily for the copy of the cover letter. Before mailing out the evaluation, the date, project number, project title, and the user's name are typed in by the Secretary on the first page of the evaluation; and the user number, position number, and project number are typed in on the second page of the evaluation form. A self-addressed, stamped envelope is enclosed with the evaluation when it is mailed. The carbon copy of the cover letter is then placed in the "Evaluations Sent but Not Received" suspense file which is kept in the Secretary's desk. The date the evaluation is sent is then entered in the Evaluation Notebook.

When the release and evaluation are returned, the official folder is pulled from the file. The date the evaluation is returned is recorded in both the Evaluation Notebook and on the front of the file. The "release date" is also filled in on the front of the file. The score from question number 1 on the evaluation is recorded on the Contact Summary Form. The evaluation is put into the file. Next the Secretary pulls the cover letter from the "Evaluations Sent but Not Received" file and places this letter into the official file. The file is then routed to the Supervising Attorney, the Student Assistants, and appropriate Research Assistant, so that everyone can see the completed evaluation, and benefit from its criticisms. If the evaluation is less than satisfactory, the Student Assistant or Supervising Attorney calls the user to ascertain in more detail the nature of the problem and to offer additional research services to attempt to rectify the situation.

When the completed evaluation comes to the Student Assistants' desk, the Student Assistant pulls the student office file folder of the memo and notes the release date on the tab. The memo is then xeroxed and the release date noted on the xerox copy. That copy is placed in the "newsletter" file for subsequent use in the Student Assistants' column in the Newsletter.

The printed file folder with the evaluation is put in the box of the Research Assistant who prepared the memo, for that Research Assistants' review. After the Research Assistant has seen the evaluation, the folder is returned to the Secretary. She totals the number of hours spent on the memo from the time sheet on the inside cover of the folder and enters the total on the Contact Summary Form. The copy of the Contact Summary Form is then stapled to the completed second page of the evaluation (the first "release" page remains in the file), and is placed in the file that goes to data processing. That file is located in the Secretary's desk. The folder is now complete and is filed.

TIME KEEPING

All time is kept in units. One unit equals one hour. An hour is subdivided into tenths. One tenth equals six minutes. All time spent less than one tenth of an hour (six minutes) is to be rounded off to the next highest tenth. The Research Assistant should note the time spent each day on the inside front cover of the printed file folder. Each student is also responsible for keeping track of his "administrative" time, *e.g.*, staff meetings. On the 15th and the last day of each month, in accordance with Creighton's administrative requirements, each student submits his total number of hours on a prepared form to the Secretary.

XEROXING

A record is kept of all xeroxing. For all materials xeroxed, a slip indicating the date and number of copies made should be filled in and initialled. All xeroxing for CLIC should be changed to the "CLIC" account. The slips should be placed in the blue pencil holder on the file cabinets in the reception area.

STUDENT ASSISTANTS' REPORT

Once the release form has been received from the original user of a memorandum, the memo is available (as indicated by the user) to other users. To make others aware of releasable memoranda, a synopsis of each such memo is included in the Student Assistants' column of the monthly Newsletter. To prepare that report, the questions and answers heading each memo in that month's Newsletter file are cut-out and arranged in numerical order. The sequence number and a letter indicating the adversary slant utilized in preparing the memo (J-Judge; P-Prosecutor; D-Defense Counsel; L-Law Enforcement Officials; PO-Probation Officers; and DCO-District Court Opinions abstracted by CLIC) are hand-entered before the question. A brief narrative of news from the student office is written to precede the list of releasable memoranda. The report is sent to the public relations office to be typeset and formatted for the Newsletter.

When the printed Newsletter is received in the CLIC office, the Secretary should enter the Volume and Number of the Newsletter on the printed file folder of each abstracted memorandum appearing in that Newsletter. The Student Assistant should put a check on the tab of the student office file folder of each memorandum indicating that that memorandum has appeared in the Newsletter.

CONFLICTS OF INTEREST

The primary goal of CLIC is to provide well researched in-depth analysis of legal problems submitted by project users. CLIC does not claim to be the "final authority" or "leading authority," but an unbiased dispassionate research pool for judge, prosecutor and public defender alike. To avoid the pitfalls of a prosecutor saying "Creighton says this," and the defender saying, "No, Creighton says this," on the same issue in the same case, it is the responsibility of the Student Assistant before accepting a request to insure that NO other work has been done for another party on the same case. This is also done to prevent the unauthorized exchange of information which is confidentially communicated to Student and Research Assistants. This is accomplished by checking the Case Card file. If previous requests have been made, a caller's request is denied without informing the caller of the name of the other user, even though it concerns a separate issue in the case.

Two requests on the same case can be accepted under unusual circumstances of urgent need for research services, only if the original user agrees and if all parties are aware that CLIC is researching the issue for other persons involved in the same case. When this happens, notations of all conversations with all parties should be written on a Request Summary Sheet and filed in the printed folder.

If the Student Assistant is unable to decide if a conflict exists, he should consult the Project Director for final determination.

If the Student Assistant or the Research Assistant to whom the case is assigned, has any personal conflicts of interest, because of other employment, etc., the Project Director must be notified immediately.

APPENDIX C

Sample Memoranda

MEMORANDUM

TO: Public Defender DATE: November 6, 1975

FROM: Creighton Legal Information Center
(Mark A. Thornhill, Research Aide)

RE: ________________________ (717)

IS A DEFENDANT WHO IS CHARGED WITH PETTY LARCENY SUBJECT TO ENHANCEMENT OF PUNISHMENT PROVISIONS OF NEB. REV. STAT. §28-512 (REISSUE 1974) AS A SECOND OFFENDER WHEN THE PREVIOUS CONVICTION RELIED UPON WAS RENDERED IN NEVADA?

PROBABLY NOT. NEBRASKA CASE LAW IS SILENT ON THIS POINT BUT WELL REASONED OPINIONS FROM OTHER STATES HOLD THAT CONVICTIONS FROM FOREIGN JURISDICTIONS SHOULD NOT BE USED TO ENHANCE PUNISHMENT UNLESS THE APPLICABLE STATUTE EXPRESSLY SO PROVIDES.

Although case law in Nebraska is silent on the question, other states have held that convictions from foreign jurisdictions can not be used to enhance punishment unless the applicable state statute expressly so provides. This conclusion was first enunciated in People v. Caesar, 1 Park Crim. 645 (New York 1865), where the defendant was indicted under a statute which provided for enhanced punishment upon a second offense of petit larceny. The New York statute did not expressly require that the first conviction be rendered within the confines of New York state. The court, noting that each state exercises exclusive jurisdiction over crimes committed within its boundaries, stated that the statute should be construed as applicable only to offenses committed within the state unless the legislature displays affirmative intent to take cognizance of foreign convictions.

A New York court reaffirmed the principle of Caesar in People v. Pardee, 202 Misc. 238, 117 N.Y.S. 2d 515 (1952), holding that a previous conviction in a foreign state was not sufficient to sustain a New York charge against the defendant as a second offender for operating an automobile while intoxicated. The Pardee court stated that recognition of a foreign conviction for the purpose of enhancing punishment should be accomplished by an act of the legislature and not by judicial interpretation.

Courts in Georgia, New Jersey, and Oklahoma have followed the lead of New York and have refused to subject an offender to enhanced punishment as a second or subsequent offender unless the statute under which the offender is charged expressly recognizes foreign convictions for the purpose of increasing the length of incarceration. *Lowe v. State*, 177 S.E. 240 (Ga. 1934); *State v. Davis*, 95 N.J. Super. 19, 229 N.2d 682 (1967); *Thorp v. State*, 96 Okla. Crim. 135, 250 P.2d 66 (1952).

In those states where foreign convictions are employed to invoke enhancement of punishment provisions upon second and subsequent offenders, the state generally relies upon an habitual criminal statute or a statute which specifically authorizes the cognizance of foreign convictions.

In *ex parte Wolfson*, 30 Cal. 2d 20, 180 P.2d 326 (1942), the defendant was convicted in a California court of grand larceny and was deemed to be an habitual criminal on the basis of three previous convictions in Pennsylvania. The pertinent provisions of the California Penal Code provided that any person twice previously convicted of a felony in California or *any other state* shall upon a third felony conviction in California be deemed an habitual criminal. Decisions interpreting similar statutes have recognized foreign convictions in designating habitual criminals in Kansas, *State v. Coltharp*, 199 Kan. 598, 433 P.2d 418 (1967), and in Illinois, *People v. Poppe*, 394 Ill. 216, 68 N.E.2d 254 (1946).

In *State v. Teahash*, 265 Minn. 407, 122 N.W. 2d 165 (1963), the Minnesota court relied upon a previous conviction in North Dakota to invoke enhanced punishment upon the accused. The Minnesota statute under which the defendant was convicted expressly provided that,

> any person who is convicted of a felony in this state after having been convicted under the laws of any other state...shall be subject to an indeterminate sentence...M.S.A. §610.28.

Accord, *People v. McDaniels*, 165 Cal. App. 2d 283, 331 P.2d 450 (1958).

Texas is the only sovereign which could be found subjecting the defendant to enhanced punishment as a result of prior foreign convictions without explicit statutory authority. Johnston v. State, 95 S.W.2d 439 (Tex. 1936). Citing 8 R.C.L. 275, the Court of Criminal Appeals of Texas reasoned:

> "Inasmuch as the increased punishment imposed on a conviction for a subsequent offense is not an additional punishment for a prior crime, the previous conviction may have been obtained in another state and still be effective as a prior conviction." 95 S.W.2d at 440.

The Nebraska petit larceny statute provides:

> [U]pon conviction for the first offense, offender shall be punished by imprisonment...or by a fine ...or by both...and upon conviction of the second or any subsequent offense, such a person so offending shall be guilty of a felony...Neb. Rev. Stat. §28-512 (Supp. 1974).

The statute is silent on the question of whether a previous conviction from a foreign jurisdiction can be relied upon to invoke statutory enhancement of punishment provisions against second and subsequent offenders. Inferentially, it appears that if convictions from other jurisdictions were intended to be used to enhance punishment on offenders in Nebraska, the Unicameral would have expressly so stated.

Penal statutes should always be strictly construed. State v. Simants, 182 Neb. 491, 493, 155 N.W.2d 788, 791 (1968). When the court imputes unexpressed intent into a statute, the judiciary usurps the legislative role. Thus, where the statute includes no provision for foreign convictions, it could be argued that the court should not take cognizance of those convictions for the purpose of enhancing punishment. The accepted view is that foreign convictions cannot be used for enhancement of punishment unless an explicit statutory grant of such power is made by the legislature.

MEMORANDUM

TO: Court Appointed Attorney DATE: November 21, 1975

FROM: Creighton Legal Information Center
(Gerald L. Friedrichsen, Research Aide)

RE: ____________________ (737)

IS AN ARREST BY A DEPUTY SHERIFF OUTSIDE HIS JURISDICTION, WITHOUT ANY ELEMENTS OF HOT PURSUIT INVOLVED, A LAWFUL ARREST?

THE LEGALITY OF SUCH AN ARREST WOULD DEPEND ON THE CRIME FOR WHICH THE ARREST IS MADE. A DEPUTY SHERIFF OUTSIDE HIS JURISDICTION PROBABLY HAS ARREST AUTHORITY CO-EXTENSIVE WITH THAT OF A PRIVATE CITIZEN.

At common law a sheriff had no jurisdiction beyond the borders of his county. McLean v. State of Mississippi ex rel Roy, 96 F.2d 741 (5th Cir. 1938). In Nebraska, the powers and duties of the sheriff generally are found in Chapter 23, article 17 of the Revised Statutes. The statute granting the sheriff authority to arrest reads as follows:

> It shall be the duty of the sheriff by himself or deputy to preserve the peace in his county, to ferret out crime, to apprehend and arrest all criminals, and insofar as it is within his power, to secure evidence of all crimes committed in his county, and present the same to the county attorney and the grand jury; to file informations against all persons who he knows, or has reason to believe, have violated the laws of the state, and to perform all other duties pertaining to the office of sheriff. Neb. Rev. Stat. §23-1710 (1974).

The statute is a codification of the common law, and the authority of the sheriff to arrest extends to the boundaries of his county. Cf. Henning v. City of Hebron, 186 Neb. 381, 183 N.W.2d 756 (1971) (Police chief found to be within his scope of employment when called outside city limits by sheriff. Police chief's jurisdiction, by virtue of the Neb. Rev. Stat. §§17-118 and 29-204 (1943), was county-wide.); *State v. Carpenter*, 181 Neb. 639, 150 N.W.2d 129 (1967) (Police officer of second class city authorized to stop a motor vehicle outside the city limits by virtue of Neb. Rev. Stat. §§17-118, 29-206, and 29-204 (1943).). But where a peace officer, as defined by Neb. Rev. Stat. §49-801.17 (1974), steps outside his bailiwick, what is his arrest authority?

While the Nebraska court has not faced the issue of extra-territorial arrests, other jurisdictions have determined the validity of such arrests by treating the officer outside his bailiwick as having arrest authority co-extensive with that of a private citizen. *See* *State v. Hodgson*, 200 A.2d 567 (Sup. Ct. Del. 1964) (Pennsylvania officer purused motorist into Delaware. Held: police officers outside their bailiwick have same arrest powers as private citizen. Arrest invalid, since private citizen could not have arrested in same circumstances); *Smith v. Hubbard*, 253 Minn. 215, 91 N.W.2d 756 (1958) (police officer has same arrest power as private citizen); *Nash v. State*, 207 So. 2d 104 (Miss. 1968)(sheriff has same arrest powers outside his bailiwick as does a private citizen).

In Nebraska a citizen's arrest authority has been codified:

> Any person not an officer may, without warrant, arrest any person, if a petit larceny or a felony has been committed, and there is reasonable ground to believe the person arrested guilty of such offense, and may detain him until a legal warrant can be obtained. Neb. Rev. Stat. §29-402 (1964).

Before a person not an officer can make an arrest without a warrant, such person must have knowledge that a petit larceny or felony has been committed and must also have a reasonable ground to believe the person arrested is guilty of such an offense. Both elements must be established to sustain an arrest by a private citizen. *Kyner v. Laubner*, 3 Neb. Unof. 370, 91 N.W. 491 (1902). The determination that a felony had been committed and the person arrested had committed the felony, all derived from the arrest, would not seem to satisfy the statutory requirements.

Alternatively an argument could be made that an extra-territorial arrest made by a deputy sheriff in uniform and driving a marked car at the time of the arrest could not be sustained even as an action by a private citizen. That is, a deputy sheriff, while in uniform and operating a marked vehicle, would be operating under color of office, and his authority would be recognized by virtue of the force and effect of his official position. Therefore, the officer making such an arrest must have some valid basis in law for the arrest or the arrest cannot be sustained. Cf., Collins v. State, 143 So. 2d 700 (Fla. 1962).

The arrest powers, as contrasted with authority, are found in Chapter 29, article 4:

> Every sheriff, deputy sheriff, constable, marshal or deputy marshal, watchman, police officer, or peace officer as defined in subdivision (17) of section 49-801, shall arrest and detain any person found violating any law of this state, or any legal ordinance of any city or incorporated village, until a legal warrant can be obtained; Provided, that (1) within twenty-four hours of the arrest, with or without warrant, of any child under eighteen years of age, the parent, guardian, or custodian of such child shall be notified of the arrest, and (2) the court in which the child is to appear shall not accept a plea from the child until finding that the parents of the child have been notified or that reasonable efforts to notify such parents have been made. Neb. Rev. Stat. §29-401 (Supp. 1974).
>
> A peace officer may arrest a person without a warrant if the officer has reasonable cause to believe that such person has committed: (1) a felony; or (2) a misdemeanor, and the officer has reasonable cause to believe that such person either (a) will not be apprehended unless immediately arrested; (b) may cause injury to himself or others or damage to property unless immediately arrested; (c) may destroy or conceal evidence of the commission of such misdemeanor; or (d) has committed a misdemeanor in the presence of the officer. Neb. Rev. Stat. §29-404.02 (Supp. 1974).

Neither statute contains language indicating any territorial restriction as to where the power to arrest without a warrant may be exercised. It is equally valid to read a territorial restriction into the warrantless arrest statute as it is to read the statute literally and find no such restriction.

But it may be argued that no territorial restriction need be read into, or out of, the arrest statutes. The arrest statutes only indicate when an arrest can be made: "every...peace officer... shall arrest...any person found violating any law of this state ..." Neb. Rev. Stat. §29-401 (Supp. 1974) (emphasis supplied); or "A peace officer may arrest a person without a warrant if the officer has reasonable cause to believe that such person has committed: 1) A felony; or 2) A misdemeanor..." Neb. Rev. Stat. §29-404-02 (Supp. 1974). Where such power may be exercised is governed by statute. The statutory authority of sheriffs is county-wide by virtue of Neb. Rev. Stat. §23-1710 (1974).

The statute authorizing the appointment of deputy state sheriffs indicates that the sheriff's jurisdiction is restricted to his county. Neb. Rev. Stat. §84-106 (1971). The statute provides that the deputy state sheriffs shall have state-wide jurisdiction. Of interest, however, is the language chosen by the legislature in conferring such jurisdiction: "The superintendent and his assistants [deputy state sheriffs] shall have the same powers of each of the several counties of the state as the sheriffs have in their respective counties, insofar as the enforcement of the criminal laws is concerned." Neb. Rev. Stat. §84-106 (1971). Such language, although not conclusive, indicates that the authority of the sheriff extends only to the boundaries of his county.

The authority of a sheriff to arrest, as governed by statute, extends only to the borders of his county. An extra-territorial arrest, absent any elements of hot pursuit, would probably not be valid unless a private citizen would have authority to make the same arrest under the same conditions.

DOES A DEPUTY SHERIFF NEED PROBABLE CAUSE BEFORE A VEHICLE CAN BE STOPPED?

NO. NEB. REV. STAT. §60-435 (1974), WHICH APPLIES TO DEPUTY SHERIFFS, HAS BEEN INTERPRETED TO ALLOW STOPS OF VEHICLES WITHOUT ANY REQUIREMENT OF REASONABLE CAUSE.

The applicable statutes read as follows:

> The superintendent and all members of the Nebraska State Patrol and all other police officers mentioned in §39-6.192 shall have the power...(4) when in uniform, to require the driver thereof to stop and exhibit his operator's license and registration card issued for the vehicle and submit to an inspection of such vehicle, the registration plates, and registration card thereon... Neb. Rev. Stat. §60-435 (1974).
>
> The superintendent as defined in section 60-401, his subordinate officers or employees, including all officers and patrolmen of the Nebraska State Patrol, all sheriffs and all deputy sheriffs of the several counties, all chiefs of police and all policemen in all cities, all village marshals in all villages, throughout the State of Nebraska, are hereby specifically directed and authorized and it shall be deemed and considered a part of the official duties of each of such officers respectively to enforce the provisions of sections 39-669,21, 39-6,127, 39-6,133, 39-6,138, 39-6,140, 39-6,192 and 60-435. To perform the official duties hereby imposed, the superintendent, his subordinate officers or employees, are each of them specifically directed, if necessary, to exercise all powers recited and granted in section 60-435. Neb. Rev. Stat. §39-6,192 (1971).

The Nebraska Supreme Court, in State v. Holmberg, 194 Neb. 337, 231 N.W.2d 672 (1975), [hereinafter cited as Holmberg], held §60-435 constitutional on its face and as applied to a situation where the defendant was stopped for the purpose of checking his driver's license, registration, and vehicle identification number. After the vehicle was stopped, the police officer smelled marijuana. Upon a consent search, the officer found 84 pounds of marijuana and arrested the defendant. The defendant alleged that the initial stop of the vehicle constituted an unreasonable seizure within the ambit of the fourth amendment. The court rejected this contention, holding the stop was lawful under §60-435. The court stated that:

> Defendant argues that section 60-435, R.R.S. 1943, would be unconstitutional unless we can read into it a requirement of some reasonable cause otherwise for stopping a motor vehicle. We do not construe the statute that narrowly. This statute is intended to give the officers mentioned therein the power to enforce laws regulating the operation of vehicles or the use of the highways...Stopping the vehicles for inspection is the only practical method of enforcement of section 60-435, R.R.S. 1943. Holmberg at 340, 231 N.W.2d at ____.

The defendant relied upon Commonwealth v. Swanger, 220 Pa. Super. 720, 300 A.2d 66 (1973), which held a similar Pennsylvania statute constitutional, but limited the application of the statute to where an officer had probable cause based on specific facts which indicated that the vehicle or driver was in violation of the motor vehicle code. The Nebraska Supreme Court answered the contention that they should similarly limit the sweep of §60-435 by stating: "To so hold would emasculate the intent and purpose of the statute." Holmberg at 341, 231 N.W.2d at ____.

In a vigorous dissent, Justice McCown stated:

> That [the majority] holding emasculates the constitutional protection of the Fourth Amendment guarantees against unreasonable search and seizure and for all practical purposes repeals the Fourth Amendment by statutory fiat. The mere pronouncement of the magic words "I wanted to check the registration and driver's license" becomes the "open sesame" which removes all constitutional barriers to a random investigative stop of any motor vehicle at any time, any place, at the arbitrary whim of any police officer. Id. at 348, 231 N.W.2d at ____.

Both the majority and dissenting opinions cite United States v. Brignomi-Ponce, 43 U.S.L.W. 5028 (U.S. June 24, 1975), decided while the decision in Holmberg was pending. The controversy centers around the statement in footnote 8 that "Our decision in this case takes into account the special function of the Border Patrol ...Our decision thus does not imply that state and local enforcement agencies are without power to conduct such limited stops as are necessary to enforce laws regarding drivers' licenses, vehicle registration, truck weights, and similar matters." Though the majority did not elaborate on the point they were trying to make, it is apparent that they used this section for authority that spot checks to enforce licensing laws are valid. The dissent, however, interpreted the language differently, stating:

> It seems only logical that the type of investigative stop referred to in that footnote is a fixed point or checkpoint stop and not an indiscriminate random stop of a single vehicle without reasonable suspicion. Holmberg, supra at 352, 231 N.W.2d at ____.

The dissent also cites the recent case United States v. Bell, 383 F. Supp. 1298 (D. Neb. 1974) appeal docketed, No. 74-0-48, 8th Cir., November, 1974, decided prior to Holmberg, which cast doubt upon the constitutionality of §60-435. The Federal Court construed it to mean there must be some specific facts which draw or attract the attention of an officer to a possible violation of law.

The court in Bell, supra, stated:

> This court, as a matter of abstention, explicitly abstains from comment on the constitutionality or scope of [Neb. Rev. Stat. §60-435 (1974)], in its unqualified and unconditional application as contended by the government in this case.... Id. at 1301.

The court further stated that:

> It is intolerable and unreasonable to allow or authorize a police officer to stop any vehicle on a pretext or in a selective manner through the utilization of a state driver's license statute or motor vehicle registration or safety statute, on the chance that such officer might perceive illegal activities; such an inconvenience and indignity is not outweighed by an overriding governmental interest. Id. at 1302.

To conclude, though the federal court cast doubt upon the constitutionality of §60-435, the Nebraska Supreme Court has declared the statute constitutional and unless reversed on appeal the law must be considered valid. Accord, State v. Shepardson, 194 Neb. 673, ___ N.W.2d ___ (1975).

ONCE AN ACCUSED IS IN CUSTODY AFTER AN ARREST IN AN AUTOMOBILE AND THE AUTOMOBILE IS IMPOUNDED, IS A SEARCH OF THE AUTOMOBILE AT A DIFFERENT POINT IN TIME AND PLACE WITHOUT A WARRANT AN UNREASONABLE SEARCH WITHIN THE PROHIBITIONS OF THE FOURTH AMENDMENT?

WHILE A WARRANTLESS SEARCH INCIDENT TO A LAWFUL ARREST IS USUALLY REASONABLE, A DELAYED SEARCH MAY BE UNREASONABLE WHERE 1) NO PROBABLE CAUSE FOR A SEARCH EXISTED AT THE TIME OF THE ARREST, OR 2) THE EXIGENT CIRCUMSTANCES SURROUNDING THE ARREST DO NOT JUSTIFY A DELAY.

In enforcing the Fourth Amendment's prohibition against unreasonable searches and seizures, the United States Supreme Court has insisted upon probable cause as a minimum requirement. As a general rule, it has also required the judgment of a magistrate on the probable cause issue and the issuance of a warrant before a search is made. Chambers v. Maroney, 399 U.S. 42, 90 S. Ct. 1975, 26 L. Ed.2d 419 (1970). Only in exigent circumstances will the judgment of police as to probable cause serve as a sufficient authorization for a search. A search without a warrant is valid if made incident to a lawful arrest. United States v. Rabinowitz, 339 U.S. 56, 70 S. Ct. 430, 94 L. Ed. 653 (1950).

For purposes of the Fourth Amendment, there is a constitutional difference between houses and cars. Carroll v. United States, 267 U.S. 132, 45 S. Ct. 280, 69 L. Ed. 543 (1925). Thus, where an accused is stopped or arrested in an automobile, and probable cause exists for a search, an officer need not procure a warrant before a search is made. Such contemporaneous searches are justified 1) by a need to seize weapons and other things which might be used to assault an officer or effect an escape, 2) by the need to prevent destruction of evidence of the crime, or 3) to prevent the automobile and its contents and/or occupants from fleeing the jurisdiction before a warrant can be obtained. Preston v. United States, 376 U.S. 364, 84 S. Ct. 881, 11 L. Ed.2d 777 (1964). But once an accused is under arrest and in custody, and the police make a subsequent search of his automobile, without a warrant, is such a search lawful within the meaning of the Fourth Amendment?

The United States Supreme Court's position on such warrantless searches and seizures has not yet crystalized. In Preston, supra, the defendant, unable to explain satisfactorily to police his sitting in a parked car in the early morning hours, was arrested for vagrancy, searched for weapons, and taken to police headquarters. The car, which had not been searched at the time of the arrest, was driven by an officer to the station, subsequently towed to a garage. Soon after the man had been booked at the police station, some of the police officers went to the garage, searched the car without a warrant, and found evidence that was used to convict the defendant of conspiracy to rob a bank. The Court, in finding the search unreasonable and the evidence inadmissible, stated that once an accused is under arrest and in custody, a search made at another place without a warrant, is not incident to the arrest. Since the [accused] was under arrest at the police station and the car in police custody at a garage, there was no danger that the car would be moved out of the locality or jurisdiction. But in subsequent cases, the Court has not construed Preston as broadly as its language might permit.

In light of Preston and the preference for a magistrate's judgment, an argument could be made that only the immobilization of the car should be permitted until a search warrant can be obtained. The Court has held, however, that no difference exists between on one hand seizing and holding a car before presenting the probable cause issue to a magistrate and on the other hand carrying out an immediate search without a warrant. Given probable cause to search, either course is reasonable. Chambers v. Maroney, 399 U.S. 42, 90 S. Ct. 1975, 26 L. Ed. 2d 419 (1970).

While the original justification advanced for treating automobiles differently from houses, insofar as warrantless searches are concerned, was the vagrant and mobile nature of the vehicles, Chambers, supra, warrantless searches by state officers have been sustained in cases in which the possibilities of a vehicle's being removed or evidence in it destroyed were remote, if nonexistent.

The court has upheld a conviction which was based partly on evidence seized by police in a warrantless search of the defendant's automobile a week after his arrest. Cooper v. California, 386 U.S. 58, 87 S. Ct. 788, 17 L.Ed. 2d 730 (1967). The defendant was convicted of a narcotics violation. The conviction rested in part on the introduction of evidence seized by police without a warrant from defendant's automobile which police, upon defendant's arrest, had impounded and were holding in a garage. The search occurred a week after the arrest of defendant. In upholding the use of such evidence at trial, the Court distinguished Preston. The Court first pointed out that a state statute required that any officer making an arrest for a narcotics violation to seize and deliver any vehicle used in the commission of a narcotics offense and that such vehicle be held as evidence until a forfeiture or release has been ordered. The Court reasoned that the subsequent warrantless arrest was authorized because 1) the police were required to impound the car by state law, and 2) the search was closely related to the reason it was being detained. Preston was distinguished on several bases: 1) defendant in Preston was arrested for vagrancy, not the charge on which he was convicted, 2) the police custody of the car was totally unrelated to the vagrancy charge, and 3) there was nothing in the record to indicate that the car was driven to the station other than for defendant's convenience, or 4) nothing indicated that the police had a right to impound the car.

In Cady v. Dombrowski, 413 U.S. 433, 93 S. Ct. 2523, 37 L. Ed. 2d 706 (1973), defendant, while under the influence of alcohol, ran into a bridge abutment. At the scene of the accident, defendant told investigating police officers that he was a Chicago police officer. The Wisconsin police believed that Chicago police officers were required by regulation to carry their service revolvers at all times. After calling a towtruck to remove the disabled car and not finding a revolver on defendant's person, one of the officers looked into the front seat and glove compartment, but found no revolver. Because of injuries sustained in the accident, defendant was taken to a hospital where he lapsed into a coma. One of the police officers thereupon returned to where the auto had been towed in an effort to find defendant's revolver. The police officer opened the trunk of the car, which had been locked, and saw various items covered with blood. The officer removed the items from the car and later that day confronted defendant with blood covered items. After conferring with defendant, a lawyer told police that defendant had authorized the lawyer to state where a body might be found. Defendant was convicted of first degree murder on circumstantial evidence.

At the suppression hearing, the police officer testified that defendant did not have a revolver when he was arrested, that he was under the impression that Chicago police officers were required to carry their service revolvers at all times, and that the effort to find the revolver was "standard procedure." The court emphasized two factual determinations in determining whether the warrantless search was unreasonable: 1) the car was towed to a private garage, at the discretion of the police, for elemental reasons of safety, and 2) the search of the trunk to retrieve the revolver was standard operating procedure in that police department to protect the public from the possibility that the revolver would fall into untrained or malicious hands. The Court held that the search was not unreasonable. The concern for the safety of the general public was both immediate and constitutionally reasonable. The Court specifically refused to interpret Preston broadly and restricted its holding only for the proposition that the search there challenged could not be justified as one incident to an arrest.

The Supreme Court, in determining whether a search and seizure is unreasonable within the meaning of the Fourth Amendment, will look to the facts and circumstances of each case. The factors the Court will consider in whether a delay of a warrantless search incident to a lawful arrest renders such search unreasonable include 1) whether there is any danger that the car will leave the locality or jurisdiction, 2) whether probable cause for a search exists at the time of the stop or arrest, 3) whether the auto may be impounded under state law, 4) whether the search is closely related to the reason for the arrest, 5) whether the auto was being detained because of the arrest, 6) whether the search is part of a proper police procedure, and 7) whether the delay is the result of concern for the safety of the general public.

The Nebraska court has also faced the issues surrounding a delayed warrantless search of an automobile. State v. Franklin, 194 Neb. 630, ___ N.W.2d ___ (1975); State v. Agnew, 184 Neb. 700, 171 N.W.2d 542 (1969).

In Franklin, supra, the defendant was arrested in his automobile on a public street. The officer in charge at the scene interrupted the search of the auto because an apparently unfriendly crowd had gathered. The search was completed after the car had been towed to the police lot and immediately after the officer had completed his written report of the arrest. Overruling defendant's motion to suppress the evidence seized, the court held that where there is probable cause for arrest of an accused in his automobile on a public highway, as well as probable cause for a search of the vehicle at that time, a search a short time later while the vehicle is still in police custody is not unreasonable even though made without a warrant. The court also concluded upon examination of the record that the search occurred within an hour or two of the arrest and without avoidable delay.

In Agnew, supra, defendant was stopped while in an automobile that matched the description of an automobile that was used in a robbery. The car was stopped within an hour of the robbery near the scene of the crime. After the defendant was searched, he was arrested and taken down to the station and a policeman apparently drove the car to the same place. After the arresting officers had processed the defendant, they searched the car without obtaining a warrant. The search took place about twenty minutes after arriving at the station. The court found the warrantless search valid because it was substantially contemporaneous with the arrest. The court also found that exigent circumstances justified a delay in the search, in that it was raining and the car and police vehicles were on a public highway, blocking traffic.

In both cases, the court took great pains to establish the threshold issues before upholding the warrantless searches: whether probable cause for a search existed at the time of the arrest, and whether any exigent circumstances justified a delay. A factor also found to be important in both cases was that both the car and the evidence being searched for were directly connected with the crime for which the arrest was made.

In light of the United States Supreme Court and the Nebraska court's holdings on the issue, the following arguments can be advanced to suppress fruits of a delayed warrantless search of an automobile: 1) no probable cause existed for a search at the time of the arrest; 2) where the accused is in custody and the vehicle impounded, and justifications for a warrantless search are absent; and 3) no exigent circumstances exist justifying delay. In light of the Nebraska and Supreme Court decisions, the lack of probable cause for a search has the best chances for success.

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